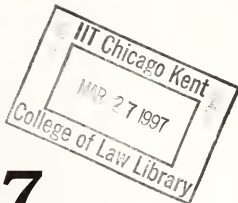


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1997

# Illinois Register

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## Rules of Governmental Agencies

Volume 21, Issue 12 — March 21, 1997

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## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The *Illinois Register* is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

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Dec. 31, 1996	Jan. 7, 1997	2	Jan. 10, 1997	July 8, 1997	July 15, 1997	29	July 18, 1997
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Feb. 11, 1997	Feb. 18, 1997	8	Feb. 21, 1997	Aug. 19, 1997	Aug. 26, 1997	35	Aug. 29, 1997
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Mar. 11, 1997	Mar. 18, 1997	12	Mar. 21, 1997	Sept. 16, 1997	Sept. 23, 1997	39	Sept. 26, 1997
Mar. 18, 1997	Mar. 25, 1997	13	Mar. 28, 1997	Sept. 23, 1997	Sept. 30, 1997	40	Oct. 3, 1997
Mar. 25, 1997	Apr. 1, 1997	14	Apr. 4, 1997	Sept. 30, 1997	Oct. 7, 1997	41	Oct. 10, 1997
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Apr. 15, 1997	Apr. 22, 1997	17	Apr. 25, 1997	Oct. 21, 1997	Oct. 28, 1997	44	Oct. 31, 1997
Apr. 22, 1997	Apr. 29, 1997	18	May 2, 1997	Oct. 28, 1997	Nov. 4, 1997	45	Nov. 7, 1997
Apr. 29, 1997	May 6, 1997	19	May 9, 1997	Nov. 4, 1997	Nov. 11, 1997	46	Nov. 14, 1997
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May 13, 1997	May 20, 1997	21	May 23, 1997	Nov. 18, 1997	Nov. 25, 1997	48	Dec. 1, 1997
May 20, 1997	May 27, 1997	22	May 30, 1997	Nov. 25, 1997	Dec. 2, 1997	49	Dec. 5, 1997
May 27, 1997	June 3, 1997	23	June 6, 1997	Dec. 2, 1997	Dec. 9, 1997	50	Dec. 12, 1997
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June 17, 1997	June 24, 1997	26	June 27, 1997	Dec. 23, 1997	Dec. 30, 1997	1	Jan. 2, 1998
June 24, 1997	July 01, 1997	27	July 7, 1997*	Dec. 30, 1997	Jan. 6, 1998	2	Jan. 9, 1998

Please note: When the Register deadline falls on a State holiday, the deadline becomes 4:30 p.m. on Monday (the day before).

\* Monday



## DEPARTMENT OF NATURAL RESOURCES

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## NOTICE OF PROPOSED AMENDMENTS

The full text of the Proposed Amendments begins on the next page:

- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 1000
- 3) Section Numbers:  
1000.20  
1000.30  
Proposed Action:  
Amendments
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-12134), as specified in Title II regulations (28 CFR 35.107)
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended because the Abandoned Mined Lands Reclamation Council is no longer in existence. It is now a division of the Department of Natural Resources. This Part will be the Department's administrative rule governing grievance procedures relating to the Americans with Disabilities Act.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:  
  
Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield, IL 62701-1797  
217/782-1009
- 12) Initial Regulatory Flexibility Analysis: These amendments do not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

CHAPTER XXIII: ABANDONED-MINER-HANDS-RECLAMATION-COUNCIL DEPARTMENT OF NATURAL RESOURCES  
TITLE 4: DISCRIMINATION PROCEDURES

PART 1000  
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	Purpose
1000.10	Definitions
1000.20	Procedure
1000.30	ADA Coordinator Level
1000.40	Final Level
1000.50	Accessibility
1000.60	Case-by-Case Resolution

AUTHORITY: Implementing Title II, Subtitle A of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131-12134), as specified in Title II Regulations (28 CFR 35.107).

SOURCE: Adopted at 16 Ill. Reg. 20092, effective December 14, 1992; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1000.20 Definitions

- a) "ADA Coordinator" is the person(s) appointed by the Executive Director who is responsible for the coordination of efforts of the Agency to comply with and carry out its responsibilities under Title II of the ADA including investigation of grievances filed by complainants. The Designated Coordinator may be contacted at 524 S. Second Street 948-Sv Spring, Springfield IL 62703-1787 62704. (28 CFR 35.107, effective January 26, 1992)
- b) "Agency" is the Illinois Department of Natural Resources Abandoned Miner-Hands-Reclamation-Council.
- c) "Complainant" is an individual with a disability who files a grievance in accordance with this Part.
- d) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such an impairment or being regarded as having such an impairment. (28-CFR-351047 effective-January-26-1992)
- e) "Grievance" is any complaint filed with the Agency by an individual alleging that he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Agency or has been subject to discrimination by the Agency, on the basis of a major life activity.
- f) "Major Life Activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking,

DEPARTMENT OF NATURAL RESOURCES  
NOTICE OF PROPOSED AMENDMENTS

breathing, learning, and working. (28-CFR-35-1847---effective--January-26-1992)

- g) "Physical or Mental Impairment" means any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (28-CFR-351847---effective-January-26-1992)
- h) "Qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodations or modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity. (28-CFR-35-1847---effective-January-26-1992)
- i) "Reasonable Accommodation" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate therein, or enjoy the benefits thereof.
- j) "Undue Hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by a covered entity.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

Section 1000.30 Final Level

- a) If the grievance has not been resolved to the satisfaction of the Complainant at the ADA Coordinator level, the Complainant may appeal the matter to the Executive Director of the Agency for final review. The Complainant shall have ten business days from receipt of the ADA Coordinator's response to file an appeal. The date of service of the ADA Coordinator's written response shall be considered the date of its mailing.
- b) The Complainant shall submit a copy of the grievance and the ADA Coordinator's response, along with a short written explanation of the reasons for dissatisfaction with the response, to constitute an appeal.
- c) The Executive Director shall appoint a 3-member panel to review the grievance at the final level. One member so appointed shall be the assigned chairman. The panel shall be afforded an opportunity, within 30 days after the Executive Director's receipt of the appeal, to appear before the panel and present testimony, written argument or other evidence, and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- shall have the right to designate a representative to appear on his or her behalf. The Panel shall review the grievance and the evidence presented, and may conduct interviews and seek additional information, evidence and/or advice as it deems appropriate, as to approval, disapproval or modification of the ADA Coordinator's decision, and transmit the recommendations to the Executive Director for final decision.
- f) The Executive Director shall render a written decision to the Complainant, with a copy to the ADA Coordinator and each panel member, within 45 days after receipt of Complainant's appeal.
- g) The grievance, the ADA Coordinator's response and the final decision of the Executive Director shall be maintained in accordance with the State Records Act [5 ILCS 160] 4414-Rev-Stat-1997--chv--1167--par 43-3-et-seq or as otherwise required by law.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Travel Regulation Council
- 2) Code Citation: 80 Ill Adm. Code 3000
- 3) Section Numbers: 3000.140  
3000.220  
Proposed Action:  
Amend  
Amend
- 4) Statutory Authority: Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].
- 5) A Complete Description of the Subjects and Issues Involved: This proposal would amend Section 3000.140 and Section 3000.220 of the Travel Regulation Council rules. The Council voted to adopt the Governor's Travel Control Board rule in regard to the calculation of mileage reimbursement. Basically, Section 2800.235 of the GVCB rules is going to become Section 3000.220 of the TRC rules.

By making this change, there will be an identical rule in both Part 3000 and Part 2800, along with two identical definitions (Commuting Expense and Commuting Mileage) within the two sets of rules.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of publication to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield, IL 62706  
217/782-9669

- 12) Initial Regulatory Flexibility Analysis: This rulemaking does not apply to small businesses.

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: These are

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

rules of the Travel Regulation Council, a multi-entity body and because of the multi entity aspect it was not apparent that CMS should have included the possibility of rulemaking for the Council in CMS' regulatory agenda. We believe it is in the best interests of all to propose these amendments so as to better clarify when mileage reimbursement is due.

The full text of the proposed amendments begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
CHAPTER IV: GENERAL TRAVEL CONTROL  
SUBTITLE I: TRAVEL REGULATION COUNCIL

## PART 3000

## THE TRAVEL REGULATION COUNCIL

## SUBPART A: GENERAL

Section	
3000.100	Authority
3000.110	Philosophy
3000.120	Policy
3000.130	Scope and Interpretation
3000.140	Definitions

## SUBPART B: TRAVEL CONTROL SYSTEM

Section	
3000.200	Travel Control System
3000.210	Designation of Headquarters
3000.220	Expenses at Headquarters or Residence
3000.230	Preparation and Submission of Vouchers or Travel Expenses

## SUBPART C: TRANSPORTATION

Section	
3000.300	Modes of Transportation
3000.310	Routing

## SUBPART D: LODGING

Section	
3000.400	Lodging Allowances
3000.410	Least Costly Lodging
3000.420	Controlled Lodging
3000.430	Employee Owned or Controlled Housing

## SUBPART E: PER DIEM-MEALS

Section	
3000.500	Per Diem Allowance
3000.510	Meal Allowance

## SUBPART F: MISCELLANEOUS RULES

Section	
3000.600	Reimbursable and Non-Reimbursable Expenses

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## 3000.610 Expenses Related to Transportation

3000.620 Receipts Required

3000.630 Meals for Other Persons

## SUBPART G: EXCEPTIONS

## Section

3000.700 Exceptions to the Rules

3000.710 Board-Agency Rules

3000.720 Non-Required Travel

## APPENDIX A

## Reimbursement Schedule

**AUTHORITY:** Implementing and authorized by Sections 12, 12-2 and 12-3 of the State Finance Act [30 ILCS 105/12, 12-2 and 12-3].

**SOURCE:** Emergency rules adopted at 10 Ill. Reg. 12697, effective July 2, 1986, for a maximum of 150 days; adopted at 10 Ill. Reg. 18188, effective January 1, 1987; peremptory amendment at 11 Ill. Reg. 14854, effective August 25, 1987; amended at 12 Ill. Reg. 11626, effective July 1, 1988; amended at 14 Ill. Reg. 10014, effective July 1, 1990; amended at 19 Ill. Reg. 7852, effective July 1, 1995; amended at 20 Ill. Reg. 7372, effective May 13, 1996; amended at 20 Ill. Reg. 9025, effective July 1, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

## Section 3000.140 Definitions

**Agency:** Any department, board, commission, committee, authority, or institution as defined in the Illinois State Auditing Act [30 ILCS 5/2-7].

**Agency Head:** The chief executive officer of an agency or a designated representative. Representatives must be authorized by the Agency Head and must be on file with the office of the Comptroller. Filing of the Signature Authorization Card (SOC-95) shall constitute authorization.

**Commuting Expense:** The cost of one round trip between residence and headquarters--regardless of mode of transportation on any given day. Cost may include mileage, parking fees, tolls, etc. Mileage cost is determined by multiplying the commuting mileage by the mileage reimbursement rate defined in Appendix A, Reimbursement Schedule.

**Commuting Mileage:** The actual round trip mileage between residence and headquarters.

**Headquarters:** The post of duty or station at which official duties

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

require the employee to spend the largest part of working time. Headquarters shall ordinarily be the corporate city limits in which the employee is stationed or may be a designated geographical area. Headquarters shall be designated by the Agency Head in accordance with policies established by the appropriate Travel Control Board.

**Travel Control Board:** Those Boards created by the State Finance Act [30 ILCS 105/12-1].

**Travel Regulation Council:** The Travel Regulation Council (TRC) or the Council shall consist of the Chairman or designees of each of the statutorily created Travel Control Boards.

**Travel Status:** An employee shall be considered "on travel status" while away from headquarters on authorized state business. Travel status shall begin when an employee leaves headquarters or, if reporting directly to destination, from residence or other location. Travel status shall conclude when an employee returns to headquarters or, if reporting directly from original destination, to residence or other location at the completion of authorized State business.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 3000.220 Expenses at Headquarters or Residence

a) As a condition of employment, employees expect to incur commuting expenses between their residence and headquarters. The expenses incurred by employees for travel between their residence and headquarters for business purposes are reimbursable with State business in excess of commuting expenses. An employee whose travel does not include travel through headquarters shall be reimbursed for all mileage. An employee whose travel does include travel through headquarters shall be reimbursed for all mileage in excess of commuting mileage. All travel must be by the most direct route.

b) "Travel through headquarters" is defined as: Any travel to or through the corporate city limits of the employee's designated headquarters, regardless of whether the employee made a stop at the work site or changed vehicles or modes of transportation.

c) Examples of reimbursable mileage expenses are as follows:  
1) Residence/lincoln -- Headquarters/Stinfield. Employee drives from residence in Lincoln to Chicago and returns to residence. Reimbursement is for all mileage because the travel was not to or through headquarters.

2) Residence/lincoln -- Headquarters/Stinfield. Employee drives from residence in Lincoln to Chicago and back to residence. Reimbursement is for all mileage in excess of commuting mileage. The travel, by the most direct route, was through headquarters.



DEPARTMENT OF CORRECTIONS  
NOTICE OF PROPOSED RULE

1) Heading of the Part: Reimbursement For Expenses

2) Code Citation: 20 Ill. Adm. Code 110

3) Section Numbers: Proposed Action:

110.10	New Section
110.15	New Section
110.20	New Section
110.25	New Section
110.30	New Section
110.35	New Section

4) Statutory Authority: Implementing Section 3-7-6 and authorized by Section 3-2-2 of the Unified Code of Corrections [730 ILCS 5/3-7-6 and 3-2-2]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking provides for the Department to request the Attorney General to institute a settlement with a convicted person or persons who have been sentenced to the Department for expenses incurred by the person's incarceration. This rulemaking specifies how the average per capita cost of incarceration shall be calculated.

6) Will this rulemaking replace any emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State Mandate.

11) Time, Place, and Manner in which interested persons may comment on this rulemaking: Any person may submit written comments on this rulemaking during the 45-day First Notice Period which commences on the issue date of this publication of the Illinois Register to:

Donald N. Snyder, Jr., Deputy Director  
Illinois Department of Corrections  
1301 Concordia Court  
P.O. Box 19277  
Springfield, Illinois 62794-9277  
Phone: (217) 522-2666, extension 2082

All written comments received after 45 days from the date of this publication will be considered, time permitting.

DEPARTMENT OF CORRECTIONS

NOTICE OF PROPOSED RULE

12) Initial Regulatory Flexibility Analysis: Not required; this rulemaking does not affect small businesses.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent Agendas because: this is a new part and the rulemaking was not anticipated.

The full text of the Proposed Rule begins on the next page:



## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED RULE

## TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT

## CHAPTER 1: DEPARTMENT OF CORRECTIONS

## SUBCHAPTER a: ADMINISTRATION AND RULES

## PART 110

## REIMBURSEMENT FOR EXPENSES

## SECTION

## 110.10 Applicability

## 110.15 Definitions

## 110.20 Responsibilities

## 110.25 Charges for Expenses

## 110.30 Liability for Expenses

## 110.35 Guidelines for Referral to Attorney General

AUTHORITY: Implementing Section 3-7-6 and authorized by Section 3-2-2 of the Unified Code of Corrections [730 ILCS 5/3-7-6 and 3-2-2].

SOURCE: Adopted at 21 Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 110.10 Applicability

This Part applies to the Adult and Juvenile Divisions of the Department of Corrections.

## Section 110.15 Definitions

"Assets" as defined in Section 3-7-6 of the Unified Code of Corrections [730 ILCS 5/3-7-6] means any and all assets and property of whatever character held in the name of the convicted person, held for the benefit of the person, or payable or otherwise deliverable to the person. Any trust, or portion of a trust, of which a convicted person is a beneficiary shall be construed as an asset of the person if under terms of the trust benefits are required to be payable to the person.

"Average per capita cost" means the amount calculated for the average per capita cost per day for all committed persons of a particular correctional facility for the fiscal year for which the rate is being calculated.

"Convicted person" means a person who has been sentenced and is presently or was previously committed to the Department.

"Department" means the Department of Corrections.

"Director" means the Director of the Department of Corrections.

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED RULE

"Gang-related activity" has the same meaning ascribed to it as in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act [740 ILCS 147/10].

## Section 110.20 Responsibilities

- a) Unless otherwise specified, the Director or Chief Administrative Officer may delegate responsibilities stated in this Part to another person or persons or designate another person or persons to perform the duties specified.
- b) No other individual may routinely perform duties whenever a Section in this Part specifically states the Director or Chief Administrative Officer shall perform the duties. The Director or Chief Administrative Officer may designate another person or persons to perform the duties during periods of his or her temporary absence or in an emergency.

## Section 110.25 Charges for Expenses for Costs of Incarceration

- a) The time period for determining the costs of incarcerating a convicted person shall be calculated from the date the person was confined within the Department or from July 1, 1982, whichever date is later, until the date the person is released.
- b) The maximum rate at which sums shall be charged for the expenses incurred by a convicted person committed to a Department correctional facility for his or her incarceration shall be computed as the average per capita cost per day for all convicted persons of the particular correctional facility in which the convicted person was incarcerated for the fiscal year during which the convicted person was incarcerated or the average per capita cost is known, except recent fiscal year in which a final average per capita cost is known.
- c) The average per capita cost of incarceration for a given Department correctional facility shall be computed by determining the total amount of operational expenditures for a given fiscal year for the particular correctional facility and dividing the expenditures by the average daily convicted person population for that particular correctional facility during that fiscal year.
- d) The average per capita cost per day for each Department correctional facility shall be recalculated annually by the Department as soon as the figures of the preceding fiscal year are available.
- e) The convicted person shall be charged for the time housed at each correctional facility.
- f) Payments received on behalf of a particular convicted person, regardless of source, shall be accepted and credited against the expenses charged to the particular convicted person.

## Section 110.30 Liability for Expenses

## DEPARTMENT OF CORRECTIONS

## NOTICE OF PROPOSED RULE

A convicted person committed to a Department correctional facility shall be responsible for reimbursing the Department for the expenses incurred by his or her incarceration or for the expenses incurred during incarceration as provided by statute and Department rules, such as educational, medical, or dental expenses.

## Section 110.35 Guidelines for Referral to Attorney General

- a) The Director may, when he or she knows or reasonably believes that a convicted person committed to a Department correctional facility has been convicted of a crime, or that the person has been convicted of a crime or part of a judgment rendered under Section 3-7-6 of the Unified Code of Corrections [730 ILCS 5/3-7-6] or when he or she knows or reasonably believes that a convicted person committed to a Department correctional facility is engaged in a gang-related activity and has a substantial sum of money or other assets, authorize the Attorney General to institute proceedings to require the convicted person or the estate of that person to reimburse the Department for expenses incurred by the convicted person's incarceration.
- b) The Director shall refrain from authorizing the Attorney General to institute proceedings to require a convicted person or the estate of that person to reimburse the Department for the expenses incurred by the convicted person's incarceration when he or she knows or reasonably believes the convicted person or their estate does not have assets in excess of the exemptions from enforcement provided for by Sections 12-704, 12-803, 12-804, 12-901, or 12-904 of the Unified Code of Corrections [730 ILCS 5/12-704, 12-803, 12-804, 12-901 or 12-904] or any federal statute or case law exempting the asset in question.

## ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Functions and Planning Program
- 2) Code Citation: 23 Ill. Adm. Code 2310
- 3) Section Numbers: 2310.80  
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 5.07 and 5.13 and authorized by Section 5.01 of the Illinois Educational Facilities Authority Act [110 ILCS 1015/5.01, 5.07 and 5.13].
- 5) A Complete Description of the Subjects and Issues Involved: Section 2310.80 is being amended to make technical corrections and to establish a maximum charge of \$7,500 for the Authority's Annual Fee. The Authority is proposing to limit its Annual Fee to a maximum of \$7,500 because, while the cost of providing services to an institution does bear some relation to the size of the financing, the Authority has determined that the annual cost of maintaining an issue on its books does not generally exceed \$7,500. The Authority projects that its Annual Fee will still provide sufficient revenue for the Authority to meet its operating expenses with the \$7,500 in place.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: Not applicable as the Authority does not receive any State funding.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments will be accepted for 45 days after the date of publication of this notice at the following address:  
  
Illinois Educational Facilities Authority  
333 West Wacker Drive, Suite 2600  
Chicago, Illinois 60606  
(312) 761-6633  
Contact: Thomas F. Conley  
Executive Director

## 12) Initial Regulatory Flexibility Analysis:

- A) Type of small business affected: Not-For-Profit Cultural and

## ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

Educational institutions.

- B) Reporting, bookkeeping or other procedures required for compliance:  
None

- C) Types of professional skills necessary for compliance: None

- 1) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: This rulemaking was not anticipated when the 2 most recent agendas were published.

The full text of the Proposed Amendment is as follows:

## ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

## CHAPTER XIV: ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

## PART 2310

## FUNCTIONS AND PLANNING PROGRAM

Section	Introduction
2310.5	Who May Apply for Financing
2310.10	Types of Educational and Cultural Facilities that can be Financed
2310.20	Types of Costs that can be Financed: Outstanding debt
2310.30	Interest Rate on the Authority's Bonds
2310.40	Method of Financing
2310.50	Length of Bond Issue
2310.60	Type of Bond Issue
2310.70	Fees
2310.80	Authority Bond Issues and Bond Ratings (Repealed)
2310.90	Estimated Fee Schedule as Special Bond Counsel with Respect to Bonds Issued by Illinois Educational Facilities Authority (Repealed)
Exhibit A	

AUTHORITY: Implementing Sections 5.07 and 5.13 and authorized by Section 5.01 of the Illinois Educational Facilities Authority Act (110 ILCS 1015/5.01, 5.07 and 5.13).

SOURCE: Filed December 23, 1977; amended at 4 Ill. Reg. 29, p. 270, effective July 2, 1980; amended at 6 Ill. Reg. 7414, effective July 1, 1982; codified at 7 Ill. Reg. 16396; amended at 8 Ill. Reg. 5192, effective April 6, 1984; amended at 8 Ill. Reg. 8444, effective June 5, 1984; amended at 10 Ill. Reg. 10569, effective June 30, 1986; amended at 11 Ill. Reg. 9106, effective April 28, 1987; amended at 11 Ill. Reg. 10600, effective May 26, 1987; amended at 13 Ill. Reg. 7498, effective May 15, 1989; amended at 17 Ill. Reg. 9880, effective July 1, 1993; amended at 20 Ill. Reg. 10336, effective July 1, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 2310.80 Fees

- a) The Authority charges the following fees to participating institutions for the services it provides:

- 1) Application Fee - for processing an Application for Assistance. - An "Application Fee", based upon the following schedule, is payable upon submission of submitted-with an application and is not refundable:
  - A) \$250-00 on issues up to but not including \$1,000,000 principal amount;
  - B) \$500-00 on issues of \$1,000,000 up to but not including \$5,000,000 principal amount; and

## ILLINOIS EDUCATIONAL FACILITIES AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

- C) \$1,000-00 on issues of \$5,000,000 principal amount and over.  
 AGENCY NOTE: This fee will be credited to the Administrative Charge upon completion of the related bond financing.
- 2) Administrative Charge - for completing a bond financing. - An "Administrative Charge" equal to 1/4 of 1% of the principal amount of bonds issued or \$10,000, whichever is less - payable following the bond-closing minus the Application Fee paid. Will be assessed at the closing of a financing.
- AGENCY NOTE: The Administrative Charge includes the Annual Fee for the fiscal year following the issuance of in which the bonds are issued.
- 3) Annual Fee - for servicing a bond financing for one during a fiscal year. - An Annual Fee will be assessed for each bond issue outstanding on July of each year for Annual Fees payable commencing on July 1, 1997, and for Annual Penalties commencing on July 1, 1997, equal to the Annual Fee of \$1,500 of 1% of the total amount of the bonds issued less the financing or \$7,500, whichever is less. The Annual Fee is payable in advance and is not refundable.
- b) These fees are designed to cover the operating expenses of the Authority. In addition, the participating institutions will be expected to bear all other costs of the financing, including trustee's fees, printing expenses, the financial advisor's fee, and the fee and disbursements of bond counsel. These fees may be financed with bond proceeds.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 600
- 3) 

Section Numbers:	Proposed Action:
600.10	Repeal
600.20	Repeal
600.30	Repeal
600.40	Repeal
600.50	Repeal
600.60	Repeal
600.70	Repeal
- 4) Statutory Authority: Implementing and authorized by Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 U.S.C. 11911-11914), as specified in Title II regulations (28 CFR 35.107).
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because the Department of Energy and Natural Resources is no longer in existence. Some of the functions of this agency are now part of the Department of Natural Resources. The Department of Natural Resources is currently in the process of amending 4 Ill. Adm. Code 1000, Americans with Disabilities Act Grievance Procedure. Part 1000 will be the Department's administrative rule governing grievance procedures relating to the Americans with Disabilities Act.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed repealer may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
 Department of Natural Resources  
 524 S. Second Street  
 Springfield, IL 62701-1787  
 217/782-1809

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

- 12) Initial Regulatory Flexibility Analysis: These amendments do not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Repealer begins on the next page:

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

TITLE 4: DISCRIMINATION PROCEDURES  
CHAPTER XXI: DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## PART 600

## AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE (REPEALED)

Section	
600.10	Purposes
600.20	Definitions
600.30	Procedure
600.40	Designated Coordinator Level
600.50	Final Level
600.60	Accessibility
600.70	Case-by-Case Resolution

AUTHORITY: Implementing and authorized by Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 U.S.C. 12131-12134), as specified in Title II regulations (28 CFR 35.107).

SOURCE: Adopted at 16 Ill. Reg. 18062, effective November 13, 1992; repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 600.10 Purposes

- a) The Americans With Disabilities Act Grievance Procedure (hereinafter referred to as "Procedure") is established pursuant to the Americans With Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq. (hereinafter referred to as "ADA") and specifically Section 35.107 of the Title II regulations, 28 CFR Part 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the Designated Coordinator. b) In general, the ADA and its regulations, and the grievance procedure offered by the Department of Energy and Natural Resources (hereinafter referred to as "Department"), when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities. c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

## Section 600.20 Definitions

- a) "Complainant" is an individual with a disability who files a Grievance Form provided by the Department under this procedure.
- b) "Designated Coordinator" is the person(s) appointed by the Department

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

Director who is/are responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under the Illinois Environmental Protection Act. The Director shall be responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under the Illinois Environmental Protection Act. The Director shall be responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under the Illinois Environmental Protection Act.

- c) "Grievance" is any complaint under the ADA by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Department, and believes he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Department or has been subject to discrimination by the Department.

## Section 600.30 Procedure

- a) Grievances must be submitted through the channels defined below in the form and manner as described within the specified time limits. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. This procedure is in calendar days, unless otherwise established in this procedure. Grievances shall be submitted by the complainant and the reviewer at the Designated Coordinator and Final Levels.
- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as the Department's last response.
- c) The Department shall, upon being informed of that individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.

## Section 600.40 Designated Coordinator Level

- a) If an individual desires to file a formal written grievance, the individual shall promptly, but no later than 180 days after the receipt of the last response given in the grievance procedure, submit the grievance to the Designated Coordinator. The grievance shall be submitted in writing and shall be accompanied by a copy of the Grievance Form. The grievance shall be submitted for the purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance shall be provided by the Department to complete the Grievance Form.
- c) The Designated Coordinator, or his/her representative, shall investigate the grievance and shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and Director within ten (10) business days after receipt of the Grievance Form.

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

## Section 600.50 Final Level

- a) If the grievance has not been resolved at the Designated Coordinator Level, the complainant may, at the discretion of the complainant, submit a copy of the Grievance Form and Designated Coordinator's response to the Director of the Department for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reason(s) for dissatisfaction with the Designated Coordinator's written response, within five (5) business days after receipt by the complainant of the Designated Coordinator's response.
- b) The Director shall appoint a three-member panel to review the grievance at the Final Level. One member so appointed shall be designated chairman.
- c) The complainant shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his/her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon reaching concurrence, the panel shall make recommendations in writing and sign the Grievance Form. The panel shall also sign the Grievance Form. All recommendations shall include the reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall also sign such recommendation.
- e) Upon receipt of recommendations from a panel, the Director shall approve, disapprove or modify the panel's recommendations, shall render a decision thereon in writing, shall state the basis therefor, and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director shall include written reasons for such disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for disapproval, the recommendations of the panel, and the decision of the Director shall be maintained in accordance with the State Records Act (Ill. Rev. Stat. 1991, ch. 116, par. 43.3 et seq.), or as otherwise required by law.

## Section 600.60 Accessibility

The Department shall ensure that all stages of the Procedure are readily accessible to and usable by individuals with disabilities.

## Section 600.70 Case-by-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service,

## DEPARTMENT OF ENERGY AND NATURAL RESOURCES

## NOTICE OF PROPOSED REPEALER

program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Department. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Americans with Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 625
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
625.10	Repeal
625.20	Repeal
625.30	Repeal
625.40	Repeal
625.50	Repeal
625.60	Repeal
625.70	Repeal
625.80	Repeal
625.90	Repeal

APPENDIX A
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans with Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107) and authorized by the Illinois Explosives Act (Ill. Rev. Stat. 1991, ch. 96 1/2, par. 1-5001).
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because the Department of Mines and Minerals is no longer in existence. It is now a division of the Department of Natural Resources. The Department of Natural Resources is currently in the process of amending 4 Ill. Adm. Code 1000, Americans with Disabilities Act Grievance Procedure. Part 1000 will be the Department's administrative rule governing grievance procedures relating to the Americans with Disabilities Act.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed repealer may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price  
Department of Natural Resources



## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

524 S. Second Street  
Springfield, IL 62701-1787  
217/782-1809

12) Initial Regulatory Flexibility Analysis: These amendments do not affect small businesses, small municipalities or not for profit corporations.

13) Regulatory Agenda on which this rule was summarized: This rule was not included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Repealer begins on the next page:

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

TITLE 4: DISCRIMINATION PROCEDURES  
CHAPTER XXII: DEPARTMENT OF MINES AND MINERALS

## PART 625

## AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE (REPEALED)

## Section

625.10 Applicability

625.20 Purposes

625.30 Definitions

625.40 Procedure

625.50 ADA Coordinator Level

625.60 Final Level

625.70 Accessibility

625.80 Case-by-Case Resolution

APPENDIX A  
Grievance Form

AUTHORITY: Implementing Title II, Subtitle A of the Americans with Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107) and authorized by the Illinois Explosives Act (Ill. Rev. Stat. 1991, ch 96 1/2, par. 1-5001).

SOURCE: Adopted at 16 Ill. Reg. 10282, effective June 10, 1992; repealed at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 625.10 Applicability

This Part applies to all offices of the Illinois Department of Mines and Minerals.

## Section 625.20 Purposes

a) This Grievance Procedure (Procedure) is established pursuant to the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.) (ADA), and specifically Section 35.107 of the Title II regulations, 28 CFR Part 35, requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities.

b) In general the ADA requires that each program, service and activity offered by the Department, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.

c) It is the intention of the Department to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

## Section 625.30 Definitions

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

"ADA Coordinator" means the person appointed by the Department who is responsible for the coordination of the Department's efforts to coordinate with and carry out its responsibilities under title II of the ADA, including investigation of grievances filed by complainants. The Department's ADA Coordinator can be contacted at 300 West Jefferson, Suite 300, Springfield IL 62702, 217/782-6791.

"Complainant" means an individual with a disability who files a Grievance Form provided by the Department under the procedure established herein.

"Department" means the Illinois Department of Mines and Minerals.

"Disability" means any complaint under the ADA by an individual with a grievance who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Department, and believes he or she has been excluded from participation in, or denied the benefits of, or subjected to discrimination by the Department.

"Grievance Form" means the form, as provided in Appendix A to this Part, that is required to be completed and submitted to the Department by a complainant to properly maintain a grievance under this Part.

## Section 625-40 Procedure

- a) Grievances must be submitted through the channels defined below in the form and manner as described within the specified time limits. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may only be extended by mutual agreement in writing by the complainant and the ADA Coordinator, at the ADA Coordinator level, or the complainant and the panel. A complainant's failure to submit a grievance or appeal a grievance to the next level of procedure as provided in this Part and within the specified time limits shall mean that the complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as the Department's final response.
- c) Upon being informed by an individual that the individual desires to file a formal grievance, the Department shall provide the individual with a copy of this procedure and the Grievance Form.

## Section 625-50 ADA Coordinator Level

- a) If an individual desires to file a formal written grievance, the individual shall promptly, but no later than 180 days after the

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

alleged discrimination, submit the grievance to the ADA Coordinator in writing on the Grievance Form. The Grievance Form must be completed in full in order to receive proper consideration by the ADA Coordinator.

- b) Upon request, assistance shall be provided by the Department to complete the Grievance Form.
- c) The ADA Coordinator, or representative of the ADA Coordinator, shall investigate the grievance and shall make reasonable efforts to resolve it. The ADA Coordinator shall provide a written response to the complainant within ten (10) business days after receipt of the Grievance Form.

## Section 625-60 Final Level

- a) If the grievance has not been resolved at the Designated Coordinator Level to the satisfaction of the Complainant, the complainant may submit a copy of the Grievance Form and ADA Coordinator's response to the Director of the Department. The Department, together with a short written statement explaining the reason(s) for dissatisfaction with the ADA Coordinator's written response, within five (5) business days after receipt by the complainant of the ADA Coordinator's response.
- b) The Director shall appoint a 3-member panel to review the grievance at the Final Level. One member so appointed shall be designated chairperson of the panel. The ADA Coordinator, and any representative of the ADA Coordinator who conducted the investigation at the ADA Coordinator Level, shall not be a member of the panel.
- c) The complainant shall be afforded an opportunity to appear before the panel. The complainant shall have a right to appoint any person as representative to appear on the complainant's behalf before the panel. Such appearance before the panel shall be an informal meeting to discuss the matter at issue. At the informal meeting any panel member shall, in the member's discretion, receive and review any statement or written submission and ask any question the member deems relevant. The panel shall then prepare a written statement of its findings and a statement of dissatisfaction. The ADA Coordinator may conduct interviews and seek advice, other than from the ADA Coordinator, and consider any statements or written submissions offered at the informal meeting as it deems appropriate.
- d) The panel shall render a decision on the basis of a majority vote and shall make recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations and shall bear the signatures of the panel members concurring in the panel's decision. A dissenting member of the panel may make a recommendation to the Director in writing and shall sign such recommendation.
- e) Upon receipt of recommendations from the panel, the Director shall approve, disapprove or modify the panel recommendations, rendering a

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

decision thereon in writing that states the basis for the decision, and cause a copy of the decision to be served on the complainant. If the Director disapproves or modifies the panel recommendations, the Director shall in the written decision state the reason for such disapproval or modification. The Director's decision shall be the final decision of the Department on the grievance.

- f) The Grievance Form, the ADA Coordinator's response, the statement of reason for dissatisfaction, the recommendations of the panel and the decision of the Director shall be maintained in accordance with the State Records Act (Ill. Rev. Stat. 1991, ch. 116, par. 43.3 et seq.) or as otherwise required by law.

## Section 625.70 Accessibility

The Department shall ensure that all stages of the procedure are readily accessible to and usable by individuals with disabilities. The ADA Coordinator shall keep on file a copy of the ADA and its regulations for review at the Department's offices by any individual who requests to review them. The ADA Coordinator, or representative of the ADA Coordinator, shall be available on reasonable notice to answer questions with respect to the rights, privileges and remedies afforded by the ADA and its regulations.

## Section 625.80 Case-by-case Resolution

Each grievance involves a unique set of factors which includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether or not an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Department. Accordingly, termination of a grievance at any level, whether through the granting or relief of a grievance, shall not constitute a precedent on which any other complainant should rely.

## ILLINOIS REGISTER

## DEPARTMENT OF MINES AND MINERALS

## NOTICE OF PROPOSED REPEALER

## Section 625. APPENDIX A Grievance Form

State of Illinois  
Department of Mines and Minerals  
Grievance  
Discrimination Based on Disability

It is the policy of the Department of Mines and Minerals to provide assistance in filling out this form. If assistance is needed, please ask.

## Name:

Address:

City, State and Zip Code:

Telephone No.:

(Voice)

(TDD)

Best time and time for contacting:

Program, service or activity to which access was denied or in which alleged discrimination occurred:

Date of alleged discrimination:

Nature of alleged discrimination:

(Attach additional sheets, if necessary. If the grievance is based on a denial of a requested reasonable modification, please fill out the back of this form.)  
I certify that I am qualified or otherwise eligible to participate in the program, service or activity and the above statements are true to the best of my knowledge and belief.

Signature

Date

Please give to the ADA Coordinator.

For Office Use Only

Date Received:

By:

IL FORM NUMBER (DATE)

(BACK OF FORM)

## DEPARTMENT OF MINES AND MINERALS

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Please fill out this part of the form if this grievance is based on the denial of requested modification of the program. A reasonable modification may be made to make programs, services and activities more accessible to persons with disabilities. Possible modifications could include such things as providing auxiliary aids and devices and changing some policies and requirements to allow an individual with a disability to participate. This form should be filled in to the extent you know the answers. It may be submitted even if incomplete.

Reasonable modification requested:

The date the reasonable modification was requested:

The person to whom the request was made:

The reason for the denial:

Estimated cost of modification (if an assistive device, such as a TDD or optical reader, or commodity or service to which a cost is readily known):

Why is the requested modification necessary to use or participate in the program, service or activity?

Alternative modifications which may provide accessibility:

Any other information you believe will aid in a fair resolution of this grievance:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Snowmobile Trail Establishment Fund Grant Program
- 2) Code Citation: 17 Ill. Adm. Code 3020
- 3) Section Numbers:  
3020.20 Proposed Action:  
3020.20 Amendments  
3020.30 Amendments  
3020.40 Amendments  
3020.50 Amendments  
3020.70 Amendments  
3020.80 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 9-1 and 9-2 of the Snowmobile Registration and Safety Act [625 ILCS 40/9-1 and 9-2].
- 5) A Complete Description of the Subjects and Issues Involved: Amendments include changing the application date from March 1 to a date to be announced by the Department; modifying the funding assistance formula to remove the restriction on grant award amounts and make equipment repairs eligible; raising the minimum required liability insurance; and changing the announcement dates to reflect current 180 day average.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rule may be submitted in writing for a period of 45 days following publication of this notice to:  
  
Jack Price  
Department of Natural Resources  
524 S. Second Street  
Springfield, IL 62701-1787  
217/782-1809
- 12) Initial Regulatory Flexibility Analysis: These amendments do not affect small businesses, small municipalities or not for profit corporations.
- 13) Regulatory Agenda on which this rule was summarized: This rule was not

## DEPARTMENT OF NATURAL RESOURCES

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included on either of the 2 most recent agendas because: The Department neglected to file a regulatory agenda on this Part.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION  
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES  
SUBCHAPTER 9: GRANTS

PART 3020  
SNOWMOBILE TRAIL ESTABLISHMENT  
FUND GRANT PROGRAM

Section	Program Objective
3020.10	Program Eligibility Requirements
3020.20	Funding Assistance Formula
3020.30	General Procedures for Grant Applications and Awards
3020.40	Eligible Projects and Activities
3020.50	Project Evaluation Criteria/Priorities
3020.60	Program Compliance Requirements
3020.80	Program Information

AUTHORITY: Implementing and authorized by Sections 9-1 and 9-2 of the Snowmobile Registration and Safety Act (625 ILCS 40/9-1 and 9-2).

SOURCE: Adopted and codified at 7 Ill. Reg. 198, effective December 22, 1982; amended at 7 Ill. Reg. 14964, effective November 1, 1983; amended at 11 Ill. Reg. 12869, effective July 28, 1987; amended at 16 Ill. Reg. 1833, effective January 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

#### Section 3020.20 Program Eligibility Requirements

Agencies eligible for financial assistance through the Snowmobile Trail Establishment Fund, hereafter referred to as STEF grant program, include any private snowmobile club or organization in Illinois having not-for-profit incorporation status with the State. Clubs/organizations seeking financial assistance through the grant program must also possess minimum liability insurance coverage of 1,000,000 \$100-000-per-person/\$300-000 per occurrence on the snowmobile facilities to be operated under the scope of the proposed project application. STEF funds may only be awarded and used for snowmobile projects located within the state boundaries of Illinois.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

#### Section 3020.30 Funding Assistance Formula

The STEF grant program shall operate on a 100% reimbursement basis of total eligible project costs with the stipulation that no more than \$7500 or ten percent (10%) of the program's annual available appropriation, whichever is

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

any can be awarded to any single project or county unless the annual program appropriation exceeds the total amount of local grant requests.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 3020.40 General Procedures for Grant Applications and Awards

- a) Requests for funding assistance through the STEEP grant program may be made through written application to the Illinois Department of Natural Resources, hereafter referred to as the Department. Necessary application forms and instructions are available through the Department.
- b) To be eligible for funding consideration, project applications must be submitted to the Department's Division of Grant Administration. The application deadline will be publicly announced by the Department. Technical services—no later than March 1 of each calendar year. Notice of grant awards are generally announced within 180 days after the application submission deadline date. Awarding of grants is made solely under the authority and directive of the Director of the Department.
- c) Grant Applications shall consist of the following basic components:
  - 1) Complete Application Form; Incorporation papers;
  - 2) Project Narrative Statement describing the project concept, location, need for and objectives of the project; anticipated benefits and approach for accomplishing the project;
  - 3) Location Map showing general location of proposed snowmobile facility and how the facility ties in with other public snowmobiling areas; if any, in the county and other snowmobiling areas maintained by the project sponsor;
  - 4) Plat Map showing detailed location and dimension of property being proposed as a snowmobile trail/area under the scope of the project;
  - 5) Detailed Site Development Plan illustrating proposed project development;
  - 6) Environmental Assessment Statement briefly describing the physical characteristics of the area being proposed for development and the impact snowmobiling will have on the area;
  - 7) Letters from property owner(s) of land where snowmobile facility is proposed, indicating approval/cooperation with project; or copy of signed property lease; approval/cooperation with project; or copy of signed property lease; approval/cooperation with project.

9) A Public Hearing soliciting public comment on the proposed project is required. Minutes of the hearing, as well as all written comments received, must be submitted to the Department as part of the application. Notice for the hearing must be advertised in a local newspaper of general circulation at least seven to 74 days prior to the date of the hearing; and

## DEPARTMENT OF NATURAL RESOURCES

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10) Proof of Liability Insurance.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 3020.50 Eligible Project Expenditures

- a) Grant assistance may be obtained for, but not limited to, the purchase of the following items or materials necessary to construct such items:
  - 1) trail signs;
  - 2) trail fencing;
  - 3) trail groomers;
  - 4) bridges or fence traversing camps (must be portable);
  - 5) parking facilities;
  - 6) warming shelters/restrooms (facility must be located on public park land);
  - 7) equipment rental necessary for facility construction; and
  - 8) other (considered on a case-by-case basis).
- b) Grant assistance may be obtained for annual trail maintenance costs as authorized by the Department to cover fuel and necessary oils/fluids, vehicle insurance, equipment repairs, and routine maintenance parts associated with the operation and transportation of the STEEP-assisted equipment. Trail maintenance costs for maintaining designated trails open to the general public for snowmobile use.
- c) It is the Department's policy that the STEEP grant program be used to assist local snowmobile clubs purchase necessary materials for development and maintenance of snowmobile facilities. Labor necessary for project completion and maintenance shall be the sole responsibility of the project sponsor utilizing donated volunteer labor. No funding assistance will be provided for club member project labor costs associated with an approved project.
- d) No grant assistance will be awarded to projects which, either in whole or in part, will not be open to the general public for snowmobile use. If the project sponsor so chooses, use of the project facilities can be restricted to only those snowmobilers who can show proof of adequate personal liability insurance coverage or are willing to sign liability waivers concerning use of the facility.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 3020.70 Program Compliance Requirements

- a) Grants awarded through the STEEP grant program shall be for a period not to exceed 18 months one-year. All approved projects must be in accordance with the agreed upon project specifications and a final billing request for reimbursement submitted to the Department within one year from the date of official grant-award notification.

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- b) All equipment/facilities purchased through the STEF grant program utilized on private property shall be subject to repossession by the Department and shall be reclaimed upon the dissolution of the project sponsor or as a result of project sponsor non-compliance with program regulations as stated herein.
- c) With the exception of designated snowmobile routes on township roads, all snowmobile facilities developed with assistance from the STEF grant shall be posted with a liability disclaimer permanent-warning sign at ingress/egress points to the facility that warns snowmobilers they use the facility at their own risk. ~~When safety at a minimum- be worded as follows:~~
- ~~When using this facility at their own risk- The landowner/manager/organization and individuals involved in the development of this facility do not consent upon any facility- the legal status of- invite- to when a duty-of-care- or responsibility is owed- and shall in no way be held liable for any injuries or damages- resulting from its use-.~~
- d) With the exception of designated snowmobile routes on township roads, it shall be the sole responsibility of the project sponsor to adequately patrol the STEF-assisted facility to insure proper usage of the facility and user compliance with all State and local snowmobiling regulations. Failure of the project sponsor to take corrective measures, which bring the facility into compliance with this part, to help remedy complaints lodged by local citizens concerning misuse of STEF-assisted facilities shall be grounds for rescission of Department participation in the project.
- e) For projects proposing permanent land/facility improvements, such as warming huts, snowmobile trails, and parking lots, it shall be necessary for the project sponsor(s) to possess and obtain "letters of agreement" or "leases" from all property owners directly associated with the development of STEF-assisted facilities which shall, at a minimum stipulate the following terms:

- General
- A) The effective dates of the agreement/lease which shall, at a minimum, be for a 4 year month period from December 1 to April 1 for 2 consecutive years.
- B) A precise description of the property to be covered under the terms of the agreement/lease for snowmobiling use.
- C) If applicable, the agreed upon rental/lease fee to be paid to the landowner in consideration for use of the designated property. PLEASE NOTE that any private landowner who accepts a valuable consideration in return for opening his/her land for public snowmobiling purposes jeopardizes the possibility for limited liability protection afforded under the Snowmobile Registration and Safety Act §25.1 UCS 40/5-1(I) and (J) State statute-§11-New Stat-1999-chr 95-32-par-686-1-(1)-(4) and -(4) to private landowners. Land-owners who open their lands to snowmobiling for no

## DEPARTMENT OF NATURAL RESOURCES

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valuable consideration.

- D) The agreement/lease is non-revocable by the landowner unless the terms of the agreement/lease are violated by the club or excessive vandalism by snowmobile users is evident. Should either the project sponsor or landowner wish to terminate the agreement/lease for any reason prior to the expiration date, the Department must be notified and made a party to the negotiations for termination.
- 2) Permitter's (landowners) Acknowledgements
- A) Permitter agrees that the described property in the agreement/lease will be open to the general public for snowmobile purposes regardless of race, sex, color, creed or national origin.
- B) During the terms of the agreement/lease, the permitter shall not utilize, make alterations to, further sublet or in other ways legally encumber the designated premises or parts thereof so as to interfere with the intended snowmobiling use of the property.
- C) Permitter shall not post "no trespassing" or other restrictive use signs on the described property at any time during the terms of the agreement/lease.
- D) Permitter shall be allowed to restrict snowmobile use on the described property during the terms of the agreement/lease only when:
- i) snowcover is less than 4 inches four-inches-44,
  - ii) there is evidence of continued facility misuse or damage to the designated property by snowmobilers,
  - iii) it is judged that conditions of the facility jeopardize user safety.
- E) Permitter agrees that all materials/equipment used to make improvements to or mark the designated property for snowmobiling use shall remain the property of the permittee and State of Illinois and shall be reclaimed/removed at the termination of the agreed upon lease.
- F) Permitter agrees that the State of Illinois and its agents from and all claims, demands, judgments and executions which may arise as a direct or indirect result of this agreement/lease or actions taken in reliance thereupon.
- G) Permitter in no way implies or assures through the execution of this agreement/lease that the designated property is safe for snowmobile use; or confers upon any trail user the legal status of invitee to whom a duty of care is owed; or assumes liability responsibility for injury to person/property caused through snowmobile use of the designated property.
- 3) Permitter's (snowmobile club) Acknowledgements
- A) To restrict snowmobiling on the permitter's property to those areas specifically designated for that purpose in the



## DEPARTMENT OF NATURAL RESOURCES

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- agreement/lease.
- B) To make only those improvements or trim and cut only those trees and shrubs on the designated property as approved by the property owner. It is further understood that all damage to fencing or other personal property of the property owner as a result of facility development or usage shall be repaired by the permittee to pre-damage condition upon termination of the agreement/lease or request of the property owner.
- C) To post necessary trail signs to insure safe and proper snowmobile usage of the designated property and remove them, as requested, upon termination of the agreement/lease or snowmobiling season.
- D) The permittee shall use all reasonable measures to promote safe and proper snowmobiling on the designated property and to prevent the deposit of litter upon said property by users and to remove such litter that may be deposited.
- E) All Leases/Letters of Agreement must be submitted to the Department, and must be consistent with Section 3020.70(e) prior to consideration for STEF grant assistance. Upon the expiration or termination of a lease agreement which causes relocation of project facilities, the Department shall be notified as to the location of the new facility site.
- G) During all times of operation of a STEF-assisted snowmobile facility, the project sponsor must possess, in current force, its Charter papers proving Not-for-Profit corporation status with the State of Illinois, and must possess insurance protection providing a minimum of \$1,000,000 fire/theft/robbery/holdup liability coverage.
- H) The project sponsor must possess the resource capabilities to:
- 1) financially fund 100% of the total cost prior to grant reimbursement;
  - 2) properly maintain and operate the fund-assisted snowmobile facility after project completion.
- I) Documents required at the time of final billing for grant reimbursement on a project include the following:
- 1) a signed "Billing Request" Form that itemizes specific project costs and contains a certification statement verifying project expenditures;
  - 2) copies of receipts/invoices for all approved project costs incurred in completing the project for which reimbursement is claimed;
  - 3) copies of cancelled checks showing proof of payment; and
  - 4) "as-built" drawings for the completed project..
- (Note: It shall be understood by the project sponsor that 45-60 days are required by the Department to disburse grant reimbursement funds to local project sponsors after receipt of a completed "Billing Request" submitted in compliance with the above listed items.)

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- J) All financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 three years after final reimbursement payment is made by the Department.
- K) The project sponsor must permanently post at the project site a STEF grant project acknowledgment sign. The required acknowledgment sign will be furnished by the Department.
- L) All work specifications must be submitted by the project sponsor to the Department upon request for review prior to commencing work. Project sponsor will be notified by the Department if the proposed project requires the approval of a registered structural engineer.
- M) Department representatives shall have access to STEF-assisted project sites at any time during construction to assess project progress and during facility operation to ensure compliance with program regulations. As time allows, Department representatives shall be permitted to conduct site visits and inspections. It shall be further understood that the final inspection and acceptance of the completed project work must be made by a Department representative personnel prior to approval of final reimbursement payment to the local project sponsor.
- N) The sponsoring agency shall identify, protect and hold harmless the Department from any and all liability, costs, damages, and claims arising as a direct or indirect result of the construction, operation or maintenance of STEF-assisted snowmobile facilities.
- O) In connection with, and prior to, the construction, and thereafter the subsequent operation and maintenance of STEF-assisted snowmobile facilities, sponsoring agency agrees that it shall be responsible for and obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:
- 1) Illinois Department of Transportation; Division of Highways and Division of Water Resources;
  - 2) Illinois Department of Natural Resources; Division of Water Resources;
  - 3) Illinois Environmental Protection Agency;
  - 4) U.S. Army Corp of Engineers;
  - 5) Local building, zoning or roadway boards/commissions.
- P) The project sponsor must comply with and abide by the following Operation and Maintenance provisions:
- 1) The charging of user fees for general public use of STEF-assisted snowmobile facilities is prohibited.
  - 2) All STEF-assisted snowmobile facilities shall be operated, maintained and utilized for general public use in such a manner as to maximize the facility's intended benefits.
  - 3) The sponsoring agency shall satisfactorily maintain STEF-assisted snowmobile facilities so as to promote the safe and enjoyable use of the facility by the snowmobiling public.
  - 4) All snowmobiling trails/facilities developed, improved and/or maintained as a result of STEF grant assistance must be open and

## DEPARTMENT OF NATURAL RESOURCES

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available to general public use and enjoyment without regard to sex, race, color, creed or national origin--sex--age--or disability.

5) Department personnel shall have access to STEF-assisted facilities at all times for inspection purposes to ensure continued compliance with program regulations.

q) All funds administered by the Department under the STEF grant program and expended by the project sponsor shall be in accordance with all applicable State statutes.

r) The Department may unilaterally rescind project agreements at any time prior to commencement of the project, if the Department experiences a funding problem or the applicant demonstrates non-compliance with a condition of the project. After project commencement, the Department may terminate the project, or suspend the project, or suspend the project with the project sponsor. A project shall be deemed commenced when the project sponsor has made an expenditure or has incurred an obligation with respect to the project.

s) Failure by the local project sponsor to comply with any of the herein cited program regulations and terms shall be cause for the suspension of all STEF grant assistance obligations and/or repossession of project equipment/material obtained thereunder, unless, in the judgment of the Department, such noncompliance was due to no fault of the project sponsor.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 3020.80 Program Information

Write: Illinois Department of Natural Resources  
Division of Grant Administration Technical Services

Lincoln Tower Plaza  
524 South Second Street

Springfield, Illinois 62701-1787  
Telephone: 217/782-7481

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Definitions and General Provisions

2) Code Citation: 35 Ill. Adm. Code 211

3) Section Numbers:  
211.7150  
Proposed Action:  
Amended

4) Statutory Authority: 415 ILCS 5/27

5) A Complete Description of the Subjects and Issues Involved: A more detailed description of this regulation may be found in the Board's Order of Business for 1997. In 1997, the Board is proposing to amend the regulation at 35 ILCS 100/3-35 and 5-40) shall not apply. Because this rulemaking is not subject to Section 5 of the IAPA, it is not subject to first or second notice by ODM.

3,3-dichloro-1,1,2,2-pentafluoropropane  
1,2-dichloro-1,1,2,2,3-pentafluoropropane  
1,1,1,2,3,4,4,5,5-decafluoropentane

The aforementioned compounds are also known as HFC 43-10mee and HCFC 225ca and cb.

Section 9.1(e) of the Environmental Protection Act (Act) [415 ILCS 5/9.1(e)] provides that Section 5 of the Illinois Administrative Procedure Act (IAPA) [5 ILCS 100/3-35 and 5-40) shall not apply. Because this rulemaking is not subject to Section 5 of the IAPA, it is not subject to first or second notice by ODM.

6) Will this proposed rule replace an emergency rule currently in effect? No  
Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? Yes

Section Numbers Proposed Action Illinois Register Citation

211.1895 New

211.2285 New

February 14, 1997, 21 Ill. Reg. 1754

January 3, 1997, 21 Ill. Reg. 329

10) Statement of Policy Objectives: The Policy Objectives of this rulemaking are those enumerated in Sections 2 and 27 of the Environmental Protection Act [415 ILCS 5/2 and 5/27]. The objectives are to protect health and environment from pollution while providing economically reasonable and technically feasible control options.

POLLUTION CONTROL BOARD  
NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R97-17 and be sent to:

Dorothy Gunn  
Clerk of the Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601  
(312) 814-6931

Questions regarding this proposal may be directed to Any C. Muran at 312-814-7011.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: Any small business that emits HFC 43-10mee and HCFC 225ca and cb.

B) Reporting, bookkeeping, or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD  
NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER C: EMISSION STANDARDS AND LIMITATIONS  
FOR STATIONARY SOURCES

PART 211  
DEFINITIONS AND GENERAL PROVISIONS  
SUBPART A: GENERAL PROVISIONS

Section  
211.101 Incorporations by Reference  
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	Other Definitions
211.121	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.170	Actual Heat Input
211.210	Adhesion
211.240	Adhesion Promoter
211.250	Aeration
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment
211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.484	Animal Pathological Waste
211.484	Animal Carcasses
211.490	Anti-Corrosion/Weathering
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt

POLLUTION CONTROL BOARD  
NOTICE OF PROPOSED AMENDMENTS

211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Coating
211.695	Batch Coating
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.920	Capture Efficiency
211.930	Capture System
211.970	Certified
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1130	Closed Purged System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1290	Coil Coating
211.1310	Cold Coating Line
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process

POLLUTION CONTROL BOARD  
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211.1410	Condensate
211.1430	Condensible PM-10
211.1465	Continuous Automatic Stoking
211.1470	Continuous Process
211.1490	Control Device
211.1510	Control Device Efficiency
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil Gathering
211.1590	Crushing
211.1610	Cumulative Transfer
211.1630	Cutback Asphalt
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency (EMI/RFI) Shielding
211.1900	Electrostatic Bell or Disc Spray
211.1920	Electrostatic Prep Coat
211.1930	Electrostatic Spray
211.1950	Emergency or Standby Unit
211.1970	Emission Rate
211.1990	Emission Unit
211.2010	Enamel
211.2030	Enclose
211.2050	End Sealing Compound Coat
211.2070	Enhanced Under-the-Cup Fill
211.2090	Ethanol Blend Gasoline
211.2110	Excess Air
211.2130	Excessive Release
211.2150	Existing Grain-Drying Operation (Repealed)
211.2170	Existing Grain-Handling Operation (Repealed)
211.2190	Exterior Base Coat
211.2210	Exterior End Coat
211.2230	Exterior End Coat
211.2250	Exterior End Coat
211.2270	Exterior End Coat
211.2290	Exterior End Coat
211.2310	Exterior End Coat
211.2330	Exterior End Coat
211.2350	Exterior End Coat
211.2370	Exterior End Coat
211.2390	Exterior End Coat
211.2410	Exterior End Coat
211.2430	Exterior End Coat
211.2450	Exterior End Coat
211.2470	Exterior End Coat
211.2490	Exterior End Coat
211.2510	Exterior End Coat
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211.2570	Exterior End Coat
211.2590	Exterior End Coat
211.2610	Exterior End Coat
211.2630	Exterior End Coat
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211.2690	Exterior End Coat
211.2710	Exterior End Coat
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211.2790	Exterior End Coat
211.2810	Exterior End Coat
211.2830	Exterior End Coat
211.2850	Exterior End Coat
211.2870	Exterior End Coat
211.2890	Exterior End Coat
211.2910	Exterior End Coat
211.2930	Exterior End Coat
211.2950	Exterior End Coat
211.2970	Exterior End Coat
211.2990	Exterior End Coat
211.3010	Exterior End Coat
211.3030	Exterior End Coat
211.3050	Exterior End Coat
211.3070	Exterior End Coat
211.3090	Exterior End Coat
211.3110	Exterior End Coat
211.3130	Exterior End Coat
211.3150	Exterior End Coat
211.3170	Exterior End Coat
211.3190	Exterior End Coat
211.3210	Exterior End Coat
211.3230	Exterior End Coat
211.3250	Exterior End Coat
211.3270	Exterior End Coat
211.3290	Exterior End Coat
211.3310	Exterior End Coat
211.3330	Exterior End Coat
211.3350	Exterior End Coat
211.3370	Exterior End Coat
211.3390	Exterior End Coat

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2400	Floating Roof
211.2430	Fountain Solution
211.2440	Freeboard Height
211.2450	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2470	Fugitive Particulate Matter
211.2480	Fuel Operating Flowrate
211.2530	Gas Emission
211.2530	Gas/Gas Method
211.2550	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2630	Gloss Reducers
211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Fire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2830	Heater
211.2850	Heavy Liquid
211.2870	Heavy Metals
211.2890	Heavy Off-Highway Vehicle Products
211.2910	Heavy Off-Highway Vehicle Products Coating
211.2930	Heavy Off-Highway Vehicle Products Coating Line
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hook
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
211.3110	Ink
211.3130	In-Process Tank

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211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3490	Loading System
211.3510	Long-Solvent Coating
211.3530	Lubricating Oil
211.3550	Magnet Wire
211.3570	Magnet Wire Coating
211.3590	Major Dump Pit
211.3610	Major Metropolitan Area (MMA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Fabrication Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles

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211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3990	New Grain-Drying Operation (Repeated)
211.4010	New Grain-Handling Operation (Repeated)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4150	Open-Ended Degreasing
211.4150	Open-Ended Valve
211.4190	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4210	Organic Compound
211.4230	Organic Material and Organic Materials
211.4250	Organic Solvent
211.4260	Organic Vapor
211.4270	Oven
211.4290	Overall Control
211.4310	Overvarnish
211.4330	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Paint
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture

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211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5030	Pressure Release
211.5050	Pressure Tank
211.5070	Pressure/Vacuum Relief Valve
211.5090	Pressure/Water Wash Primer
211.5110	Primary Product
211.5130	Prime Coat
211.5150	Printer Sealer
211.5170	Printer Surface Coating
211.5190	Printer Surface Operation
211.5210	Primers
211.5230	Printing Line
211.5250	Process Emission Source
211.5270	Process Emission Unit
211.5290	Process Unit
211.5310	Process Unit Shutdown
211.5330	Process Vent
211.5350	Process Weight Rate
211.5370	Production Equipment Exhaust System
211.5390	Production Equipment Printing Line
211.5410	Purged Process Fluid
211.5430	Rated Heat Input Capacity
211.5450	Reactor
211.5470	Reasonably Available Control Technology (RACT)
211.5490	Reclamation System
211.5510	Refiner
211.5530	Refinery Fuel Gas
211.5550	Refinery Fuel Gas System
211.5570	Refinery Unit or Refinery Process Unit
211.5590	Reflective Argon Coating
211.5610	Refrigerated Condenser
211.5630	Regulated Air Pollutant
211.5650	Reid Vapor Pressure
211.5670	Repair Coat
211.5690	Repaired
211.5710	Residual Fuel Oil

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211.5500	Resist Coat	211.6400	Stencil Coat
211.5610	Restricted Area	211.6410	Storage Tank or Storage Vessel
211.5630	Retail Outlet	211.6430	Styrene Devolatilizer Unit
211.5650	Ringelmann Chart	211.6450	Styrene Recovery Unit
211.5670	Roadway	211.6470	Submerged Loading Pipe
211.5690	Roll Coater	211.6490	Substrate
211.5710	Roll Coating	211.6510	Sulfuric Acid Mist
211.5730	Roll Printer	211.6530	Surface Condenser
211.5750	Roll Printing	211.6540	Surface Preparation Materials
211.5770	Rotogravure Printing Line	211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.5790	Safety Relief Valve	211.6570	Tablet Coating Operation
211.5810	Sanding	211.6580	Texture Coat
211.5830	Sanding Sealers	211.6590	Thirty-Day Rolling Average
211.5850	Sanding	211.6610	Three-Piece Can
211.5870	Sealing	211.6630	Three or Four Stage Coating System
211.5890	Sealing	211.6650	Through-the-Valve Fill
211.5910	Semi-Transparent Stains	211.6670	Tooling Resin
211.5930	Sensor	211.6690	Topcoat Operation
211.5950	Set of Safety Relief Valves	211.6710	Topcoat System
211.5970	Sheet Basecoat	211.6730	Touch-Up
211.5980	Sheet-Fed	211.6750	Touch-Up Coating
211.5990	Shotblasting	211.6770	Transfer Efficiency
211.6010	Side-Seam Spray Coat	211.6790	Tread End Cementing
211.6025	Single Unit Operation	211.6810	True Vapor Pressure
211.6030	Smoke	211.6830	Turnaround
211.6050	Smokeless Flame	211.6850	Two-Piece Can
211.6060	Soft Coat	211.6870	Under-the-Cup Fill
211.6070	Solvent	211.6890	Underthread Cementing
211.6090	Solvent Cleaning	211.6910	Uniform Finish Blender
211.6110	Solvent Recovery System	211.6930	Unregulated Safety Relief Valve
211.6130	Solvent	211.6950	Vacuum Metallizing
211.6145	Specialty Coatings	211.6970	Vacuum Producing System
211.6160	Specialty Coatings for Motor Vehicles	211.6990	Vapor Control System
211.6170	Specialty High Gloss Catalyzed Coating	211.7010	Vapor Collection System
211.6190	Specialty Leather	211.7030	Vapor Control System
211.6210	Specialty Soybean Crushing Source	211.7050	Vapor Recovery System
211.6230	Splash Loading	211.7070	Vapor Suppressed Polyester Resin
211.6250	Stack	211.7090	Vinyl Coating
211.6270	Stain Coating	211.7110	Vinyl Coating Line
211.6290	Standard Conditions	211.7130	Volatile Organic Liquid (VOL)
211.6310	Standard Cubic Foot (scf)	211.7150	Volatile Organic Material Content (VOMC)
211.6330	Start-Up	211.7170	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.6350	Stationary Emission Source	211.7190	Wash Coat
211.6370	Stationary Emission Unit		
211.6390	Stationary Gas Turbine		
211.6410	Stationary reciprocating Internal Combustion Engine		
211.6430	Stationary source		
211.6450	Stationary storage Tank		

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211.6400	Stencil Coat	211.6410	Storage Tank or Storage Vessel
211.6430	Styrene Devolatilizer Unit	211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe	211.6490	Substrate
211.6510	Sulfuric Acid Mist	211.6530	Surface Condenser
211.6540	Surface Preparation Materials	211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation	211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average	211.6610	Three-Piece Can
211.6630	Three or Four Stage Coating System	211.6650	Through-the-Valve Fill
211.6670	Tooling Resin	211.6690	Topcoat Operation
211.6710	Topcoat System	211.6730	Touch-Up
211.6750	Transfer Efficiency	211.6770	Tread End Cementing
211.6790	True Vapor Pressure	211.6810	Turnaround
211.6830	Two-Piece Can	211.6850	Under-the-Cup Fill
211.6870	Underthread Cementing	211.6890	Uniform Finish Blender
211.6910	Unregulated Safety Relief Valve	211.6930	Vacuum Metallizing
211.6950	Vacuum Producing System	211.6970	Vapor Control System
211.6990	Vapor Collection System	211.7010	Vapor Control System
211.7030	Vapor Recovery System	211.7050	Vapor Suppressed Polyester Resin
211.7070	Vinyl Coating	211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)	211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)	211.7170	Wash Coat
211.7190			



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211.7210 Wastewater (Oil/Water) Separator  
 211.7230 Weak Nitric Acid Manufacturing Process  
 211.7250 Web  
 211.7270 Wholesale Purchase - Consumer  
 211.7290 Wood Furniture  
 211.7310 Wood Furniture Coating  
 211.7330 Wood Furniture Coating Line  
 211.7350 Woodworking  
 211.7380 Yeast  
 211.7400 Yeast Percentage

APPENDIX A Rule into Section Table  
 APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1 and 10 and authorized by Sections 27 and 28-5 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 10, 27 and 28-5].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 111. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 111. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 111. Reg. 1244, effective January 21, 1983; codified at 7 111. Reg. 13590; amended in R82-1 (Docket A) at 10 111. Reg. 12624, effective July 7, 1986; amended in R85-11(A) at 11 111. Reg. 11747, effective October 1, 1989; amended in R87-11(B) at 13 111. Reg. 22467, effective July 10, 1987; amended in R88-39 at 15 111. Reg. 20804, effective December 14, 1987; amended in R89-5 at 17 111. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 111. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 111. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 111. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 111. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 111. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 111. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 111. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 111. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 111. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 111. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 111. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 111. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 111. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 111. Reg. 1253, effective January 16, 1994; amended in R94-12 at 18 111. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 111. Reg. 15744, effective October 17, 1994; amended in R94-18 at 18 111. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 111. Reg. 16502, effective November 1, 1994; amended in R94-21 at 19 111. Reg. 16923, effective May 9, 1995; amended in R94-31 at 19 111. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 111. Reg. 11066, effective July 12, 1995; amended in R95-15 at 19 111. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 111. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 111. Reg. 2641, effective

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February 7, 1997; amended in R97-17 at 21 111. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

BOARD NOTE: This Part implements the Illinois Environmental Protection Act as of July 1, 1994.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; apostrophes are denoted by brackets.

## SUBPART B: DEFINITIONS

## Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material (VOM)" or "volatile organic compound (VOC)" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

a) This includes any such organic compound other than the following, which have been determined to have negligible photochemical reactivity:

## methane:

ethane;  
 methane chloride (dichloromethane);  
 methyl trichloride (methyl chloroform);  
 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);  
 trichlorofluoromethane (CFC-11);  
 dichlorodifluoromethane (CFC-12);  
 chlorodifluoromethane (CFC-22);  
 trifluoromethane (HFC-23);  
 1,2-dichloro-1,1,2,2-tetrafluoroethane (CFC-114);  
 chloropentafluoroethane (CFC-115);  
 1,1,1-trifluoro-2,2-dichloroethane (HFC-123);  
 1,1,1,2-tetrafluoroethane (HFC-134a);  
 1,1-dichloro-1-fluoroethane (HFC-141b);  
 1-chloro-1,1-difluoroethane (HFC-142b);  
 2-chloro-1,1,1,2-tetrafluoroethane (HFC-124);  
 pentafluoroethane (HFC-125);  
 3,3-dichloro-1,1,1,2,2,2-hexafluoroethane [HFC 225ca];  
 1,2-dichloro-1,1,2,2,3,3-hexafluoropropane [HFC 225cb];  
 1,1,2,2,3,3,3,3-octafluoropropane [HFC 225cc];  
 1,1,2,2,3,3,3,3-tetrafluoroisobutane [HFC 134a];  
 1,1,1-trifluoroethane (HFC-143a);  
 1,1-difluoroethane (HFC-152a);  
 perfluorocarbon parachlorobenzotrifluoride (PCBTFF);  
 perchloroethylene (tetrachloroethylene);  
 cyclic, branched, or linear completely-methylated siloxanes;

## POLLUTION CONTROL BOARD

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acetone (2-propanone or dimethylketone);

- a) perfluorocarbon compounds which fall into these classes:
  - 1) cyclic, branched, or linear, completely fluorinated alkanes;
  - 2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations;
  - 3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations; and
  - 4) sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
- b) For purposes of determining VOC emissions and compliance with emissions limits, VOC will be measured by the test methods in approved implementation plan or 40 CFR Part 60, Appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112 and 219.112, as applicable, or by source-specific test methods that have been established pursuant to a permit issued pursuant to a program approved or promulgated under Title V of the Clean Air Act; under 40 CFR Part 51, Subpart I or Appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112; or under 40 CFR Part 32.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable. A method also measures compounds which are not included in negligible photochemical reactivity, but which are not included in negligible photochemical reactivity, the amount of such compounds is accurately quantified and the exclusions is approved by the Agency.
- c) As a precondition to excluding these negligibly-reactive compounds as VOC, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.
- d) The USEPA shall not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b) above.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PROFESSIONAL REGULATIONS

## NOTICE OF PROPOSED RULES

- 1) **Heading of the Part:** Respiratory Care Practice Act

- 2) **Code Citation:** 68 Ill. Adm. Code 1456

- 3) **Section Numbers:**

1456.05	Proposed Action:
1456.10	New Section
1456.20	New Section
1456.30	New Section
1456.40	New Section
1456.50	New Section
1456.60	New Section
1456.70	New Section
1456.80	New Section
1456.90	New Section
1456.100	New Section
1456.110	New Section
1456.120	New Section

- 4) **Statutory Authority:** Implementing the Respiratory Care Practice Act [225 ILCS 106] and authorized by Section 60(7) of the Civil Administration Code of Illinois [20 ILCS 2105/60(7)].

- 5) **A Complete Description of the Subjects and Issues Involved:**

Public Act 89-33, effective January 1, 1996, provides for the licensure of respiratory care practitioners by the Department of Professional Regulation. When adopted, these rules will allow the Department to begin processing licensure applications.

These proposed rules detail how applicants qualified by education and experience can obtain licenses as respiratory care practitioners under grandfather provisions of Section 90(b) of the Act until January 1, 1998.

To qualify for licensure under grandfather provisions, an applicant must submit to the Department evidence that he/she has been employed as a respiratory care practitioner for at least 3 of the 5 years prior to January 1, 1996, the effective date of the Act. Section 1456.05 has been published as an emergency rule so that grandfather applicants have ample time to apply prior to January 1, 1998.

The examination(s) required for licensure of respiratory care practitioners is the Entry Level Respiratory Care Examination of the National Board for Respiratory Care or the Registered Respiratory Therapists Examination of the National Board for Respiratory Care.

The proposed rules specify criteria for an approved respiratory care training program. In determining whether a program should be approved,

## DEPARTMENT OF PROFESSIONAL REGULATIONS

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the Department shall take into consideration but not be bound by accreditation from the Joint Review Committee for Respiratory Therapy Education or by the American Medical Association Committee on Allied Health Education and Accreditation or its successor, the Commission on Accreditation of Allied Health Education Programs. Application procedures have been set forth for individuals who have not graduated from an approved program.

The proposed rules tell how persons licensed or registered as respiratory care practitioners in other jurisdictions can obtain licensure by endorsement in Illinois. They also describe how to renew or restore a license, how to practice in another jurisdiction, and how to obtain a license as a practitioner. The Department may grant variances to that rules. Standards of Unprofessional Conduct have been set forth in these rules.

Licenses will be required to complete 24 hours of continuing education beginning with the April 30, 2001 renewal and every renewal thereafter. This rulemaking provides for sponsor approval for individuals wanting to provide continuing education and also sets forth the provisions by which licensees may take out space obtain continuing education.

- 6) Do these Proposed Rules replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic renewal date? No
- 8) Do these Proposed Rules contain incorporations by reference? No
- 9) Are there any other proposed rules pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no effect on local governments.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Professional Regulation  
Attention: Jean A. Courtney  
320 West Washington, 3rd Floor  
Springfield, IL 62786  
217/785-0813 Fax #: 217/782-7645

All written comments received within 45 days after this issue of the Illinois Register will be considered.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit

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corporations affected: Those providing respiratory care or continuing education for respiratory care practitioners.

- B) Reporting, bookkeeping or other procedures required for compliance: Every respiratory care practitioner license issued under the Act shall expire on April 30 of odd numbered years. The first license renewal period will be April 30, 1999. Licensees are responsible for notifying the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to renew a license. Beginning with the April 30, 2001 renewal, licensees will be required to complete 24 hours of continuing education in order to renew a license.

Entities wishing to become providers of respiratory care practitioner continuing education shall file an application, pay a fee and meet any other requirements set forth in these rules. They will be required to renew the continuing education license every two years.

- C) Types of professional skills necessary for compliance: Respiratory care skills are necessary for licensure.

- 13) Regulatory Agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Rules begins on the next page:

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## NOTICE OF PROPOSED RULES

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1456  
RESPIRATORY CARE PRACTICE ACT

- Section  
1456.05 Application for Licensure as a Respiratory Care Practitioner Under Section 50(b) of the Act (Grandfather)
- 1456.10 Definitions
- 1456.20 Approved Respiratory Care Training Program
- 1456.30 Application for Licensure on the Basis of Examination
- 1456.40 Application for Licensure for Graduates from a Nonapproved Program
- 1456.50 Endorsement
- 1456.60 Renewals
- 1456.70 Inactive Status
- 1456.80 Restoration
- 1456.90 Unprofessional Conduct
- 1456.100 Continuing Education
- 1456.110 Granting Variances
- 1456.120

AUTHORITY: Implementing the Respiratory Care Practice Act (225 ILCS 1061) and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Emergency amendment at 21 Ill. Reg. \_\_\_\_\_, effective March 11, 1997, for a maximum of 150 days.

## Section 1456.05 Application for Licensure as a Respiratory Care Practitioner Under Section 50(b) of the Act (Grandfather)

- a) Any person seeking a license under Section 50(b) of the Respiratory Care Practice Act (the Act) shall file an application with the Department, on forms provided by the Department. The application shall be postmarked no later than January 1, 1998, and shall include the following:

- 1) Verification of employment as a respiratory care practitioner as defined in Section 3 of the Act for at least 3 of the 5 years prior to January 1, 1998. Employment shall be documented by one or more of the following:
  - A) Certification of experience, on forms provided by the Department, signed by an employer; or
  - B) Three affidavits submitted by peers familiar with the applicant's experience as a respiratory care practitioner;
- 2) A complete work history;

## DEPARTMENT OF PROFESSIONAL REGULATIONS

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- 3) The required fee set forth in Section 75(a) of the Act;
- 4) Certification, on forms provided by the Department, from a jurisdiction in which the applicant was originally licensed and is currently licensed, if applicable, stating:

- A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license; and
  - B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- b) When the accuracy of any submitted documentation or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
  - 2) Appear at an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

## Section 1456.10 Definitions

"Act" means the Respiratory Care Practice Act.

"Board" means the Respiratory Care Board.

"Department" means the Department of Professional Regulation.

## Section 1456.20 Approved Respiratory Care Training Program

- a) The Department of Professional Regulation (the Department) shall, upon the recommendation of the Respiratory Care Board (the Board), approve a respiratory care program as a training program for licensure under Section 50(b) of the Act if it meets the criteria set forth in this Section:

- 1) is regionally accredited or legally recognized and authorized by the jurisdiction in which it is located to confer the appropriate degree;
- 2) has a faculty that consists of a sufficient number of full-time instructors to ensure educational obligations to the students are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees or experience in their area(s) of teaching from professional colleges or institutions;
- 3) has a program director, clinical coordinator and medical director; and
- 4) has 62 semester hours or the equivalent of a 12 month course of study which includes all of the following curriculum/subject areas with structured laboratory and clinical experience:
  - A) Basic Sciences:
    - Biology

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## Cardiopulmonary anatomy and physiology

## Chemistry

## Human anatomy and physiology

## Computer science

## Mathematics

## Microbiology

## Pharmacology

## Physics

## Psychology

## B) Clinical Sciences:

## Cardiopulmonary diseases

## General medical and surgical specialties

## Pathology

## Pediatrics and perinatology

## C) Respiratory Care Content Areas:

## Aerosol therapy

## Airway management

## Assessment of patients' cardiopulmonary status

## Cardiopulmonary diagnostics and interpretation

## Cardiopulmonary monitoring and interpretation

## Cardiopulmonary rehabilitation and home care

## Cardiopulmonary resuscitation

## Chest physiotherapy

## Ethics of respiratory care and medical care

## Gas therapy

## General patient care

## Humidity therapy

## Hyperinflation therapy

## Mechanical ventilation management

## Oxygen therapy

## Patient education

## Perinatal/perinatology

## b) Individuals applying for licensure who are deficient in any of the

## content areas set forth in subsection (a)(4) above may complete any

## one or all of these courses in an approved respiratory care program.

## The applicant will be required to submit proof to the Department that

## he or she has passed such a course(s). Proof shall include, but not

## be limited to, transcript, curriculum, program materials and course

## materials.

## c) When the accuracy of any submitted documentation or the relevance or

## sufficiency of the course work is questioned by the Department or the

## Board, the applicant will be required to provide such information as

## may be necessary and/or appear for an interview before the Board to

## explain such relevance or sufficiency, clarify information or clear up

## any discrepancies or conflicts in information.

## d) In determining whether a program should be approved, the Department,

## upon recommendation of the Board, shall take into consideration, but

## not be bound by, accreditation or approval by the Joint Review

## Committee for Respiratory Therapy Education or accreditation by the

## Committee for Respiratory Therapy Education or accreditation by the

## Committee for Respiratory Therapy Education or accreditation by the

## Committee for Respiratory Therapy Education or accreditation by the

## Committee for Respiratory Therapy Education or accreditation by the

## Committee for Respiratory Therapy Education or accreditation by the

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## American Medical Association Committee on Allied Health Education and

## Accreditation (CMAHA), or its successor, the Commission on

## Accreditation of Allied Health Education Programs (CAAHEP).

## e) The Department, upon recommendation of the Board, has determined that

## all respiratory therapy programs accredited or approved by the Joint

## Review Committee for Respiratory Therapy Education or accredited by

## CMAHA, or its successor CAAHEP, meet the minimum criteria set forth in

## this Section and are, therefore, approved.

## Section 1456.30 Application for Licensure on the Basis of Examination

a) An applicant for a respiratory care practitioner license shall apply on forms approved by the Department. The application shall include:

- 1) Verification of successful completion of an approved respiratory therapy program as set forth in Section 1456.20 of this Act;
- 2) Proof of successful completion of the examination for certification or the Registered Respiratory Therapist Examination of the National Board for Respiratory Care submitted directly from the testing entity;
- 3) A complete work history;
- 4) The required fee specified in Section 75(a) of the Act.

b) In lieu of the documents required in subsections (a)(1) and (2) above, an applicant may submit certification as a Certified Respiratory Therapy Technician or as a Registered Respiratory Therapist from the National Board for Respiratory Care.

c) If the applicant has ever been licensed in another jurisdiction, he/she shall also submit a certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and in which the applicant is currently licensed, stating:

- 1) the time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
  - 2) A description of the examination in that jurisdiction; and
  - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- d) When the accuracy of any submitted documentation or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

## Section 1456.40 Application for Licensure for Graduates from a Nonapproved Program

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- a) An applicant for a respiratory care practitioner license from a nonapproved program shall apply on forms approved by the Department. The application shall include:

- 1) Transcripts and verification of successful completion of a respiratory therapy program which shall meet the requirements set forth in Section 1456.20 of this Part. The applicant shall be responsible for submitting the program materials for evaluation. If the documentation is insufficient to evaluate the program, the applicant will be requested to submit additional materials;
- 2) A complete work history; and
- 3) The required fee specified in Section 75(a) of the Act.

- b) If the applicant has ever been licensed in another jurisdiction, he/she shall also submit a certification, on forms provided by the Department, from the jurisdiction in which the applicant was originally licensed and in which the applicant is currently licensed, stating: the time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;

- 2) A description of the examination in that jurisdiction; and
- 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

- c) Upon approval of the applicant's program by the Department, the applicant may sit for the examination set forth in Section 1456.50 of this Part.

- d) When the accuracy of any submitted documentation or experience is questioned by the Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

## Section 1456.50 Examination

- a) The examination for licensed respiratory care practitioners shall be the Entry Level Respiratory Care Examination of the National Board for Respiratory Care.

- b) Candidates for the examination shall make application and pay the examination fee directly to the designated testing service.

- c) Application to the testing services for purposes of the examination shall not constitute application to the Department for licensure.

- d) In lieu of the Entry Level Respiratory Care Examination of the National Board for Respiratory Care, the Department will accept the Registered Respiratory Therapists Examination of the National Board for Respiratory Care.

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## Section 1456.60 Endorsement

- a) An applicant who is licensed/registered under the laws of another state or territory of the United States who wishes to be licensed in Illinois as a respiratory care practitioner shall file an application with the Department, on forms provided by the Department, which includes:

- 1) Verification of meeting education requirements as set forth in Section 1456.20 of this Part;
- 2) Proof of passage of the Entry Level Respiratory Care Examination or Registered Respiratory Therapists Examination of the National Board for Respiratory Care submitted directly from the testing reporting service;
- 3) Certification from the jurisdiction of original licensure and the jurisdiction in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;
- 4) Complete work history since graduation from the respiratory care program;
- 5) The required fee specified in Section 75(m) of the Act.

- b) In lieu of the documents required in subsections (a)(1) and (2) above, an applicant may submit certification from the National Board for Respiratory Care.

- c) The Department shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination of the Act or the applicant possesses individual qualifications which were substantially equivalent to the requirements of the Act.

- d) The Department shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

## Section 1456.70 Renewals

- a) The first renewal period for licensure under the Act shall be April 30, 1999. Thereafter, every license issued under the Act shall expire on April 30 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. Beginning with the April 30, 2001 renewal and every renewal thereafter, a renewal applicant will be required to complete 24 hours of continuing education as set forth in Section 1456.110 of this Part.

- b) It is the responsibility of each licensee to notify the Department of any change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the



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## renewal fee.

- c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 95 of the Act.

## Section 1456.80 Inactive Status

- a) Licensed respiratory care practitioners who notify the Department, on forms provided by the Department, may place their licenses on inactive status and shall be excused from paying renewal fees until they notify the Department in writing of their intention to resume active practice.
- b) Licensed respiratory care practitioners whose licenses are on inactive status shall do so in accordance with Section 1456.90 of this Part.
- c) Any respiratory care practitioner whose license is on inactive status shall not use the title "licensed respiratory care practitioner" in the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

## Section 1456.90 Restoration

- a) Any respiratory care practitioner whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 75(e) of the Act. Individuals restoring a license after April 30, 2001 will be required to submit proof of 24 hours of continuing education as set forth in Section 1456.110 of this Part.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, for review by the Board, together with the fee required by Section 75(f) of the Act. Individuals restoring a license after April 30, 2001 will be required to submit proof of 24 hours of continuing education as set forth in Section 1456.110 of this Part. The applicant also shall submit either:
- 1) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice; or
  - 2) An affidavit attesting to military service as provided in Section 65(d) of the Act; or
  - 3) Proof of passage of the respiratory care examination set forth in Section 1456.30 of this Part during the period the registration expired or on inactive status.
- d) When the accuracy of the documentation or the relevance or sufficiency of the course work experience is questioned by the Department because of lack of information, discrepancies or conflicts

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in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

- e) Upon recommendation of the Board and approval by the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.

## Section 1456.100 Unprofessional Conduct

Pursuant to Section 95 of the Act, unprofessional conduct in the practice of respiratory care shall include but not be limited to:

- a) Procuring, attempting to procure or renewing a license as provided by this Part by bribery, by fraudulent misrepresentation or through an error of the Board or the Department;
- b) Willfully making or filing a false report or record, willfully failing to file a report or record required by State or federal law, or willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records include only those reports or records which require the signature of a respiratory care practitioner licensed pursuant to this Part;
- c) Circulating untruthful, fraudulent, deceptive or misleading advertising;
- d) Engaging or attempting to engage in the possession, sale or distribution of controlled substances for any purpose other than a legitimate medical purpose;
- e) Willfully or repeatedly violating a lawful order of the Board or the Department previously entered in a disciplinary hearing;
- g) Accepting and performing professional responsibilities which the licensee knows, or has reason to know, he/she is not competent to perform;
- h) Delegating professional responsibilities to a person when the licensee knows, or has reason to know, that such person is not qualified by training, experience or licensure to perform them;
- i) Gross or repeated malpractice or the failure to deliver respiratory care services with that level of care, skill and treatment which is recognized by a reasonably prudent respiratory care practitioner with similar professional training as being acceptable under similar conditions and circumstances;
- j) Paying or receiving any commission, bonus, kickback or rebate, or from, or engaging in any split-fee arrangement in any form whatsoever with, a person, organization or agency, either directly or indirectly, for goods or services rendered or to be rendered by or to providers of health care goods and services, including, but not limited to,



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hospitals, nursing homes, clinical laboratories, ambulatory surgical centers or pharmacies. The provisions of this subsection shall not be construed to prevent the licensee from receiving a fee for professional consultation services;

k) Failing to document in the medical records actions and justification taken by the licensee; and

l) Performing professional services which have not been duly ordered.

## Section 1456.110 Continuing Education

- a) Continuing Education Hour Requirements
  - 1) Every renewal applicant shall complete 24 hours of Continuing Education (CE) each year. The CE shall be earned by the licensee during the CE renewal period. A renewal period is required during each pre-renewal period. A renewal period is the 24 months preceding April 30 in the year of the renewal.
  - 2) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
  - 3) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
  - 4) A licensee who serves as an instructor, speaker or discussion leader of a CE program will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for a renewal applicant during any renewal period.
  - 5) A renewal applicant must comply with CE requirements for the first renewal following the original issuance of the license.
  - 6) Respiratory Care Practitioners licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
  - 7) A renewal applicant shall receive 6 continuing education hours for passage of the Advanced Practitioner, Clinical Simulation or any other NBRC examination beyond entry level. CE credit will not be granted for examinations beyond more than once.
- b) Approved Continuing Education
  - 1) All continuing education hours must be earned by verified attendance at or participation in a program which is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c) below.
  - 2) Continuing education credit hours used to satisfy the CE requirements of this CE regulation may be submitted for approval for fulfillment of the CE requirement of the licensee in Illinois.
  - 3) Credit shall not be given for courses taken in Illinois from

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- unapproved sponsors.
- c) Continuing Education Sponsors and Programs shall mean:
    - A) The American Association of Respiratory Care;
    - B) The Illinois Association of Respiratory Care;
    - C) American Medical Association of the Illinois Medical Society;
    - D) American Hospital Association or Illinois Hospital Association;
    - E) Illinois Nurses Association of the American Nursing Association;
    - F) American Lung Association; or
    - G) Any other person, firm, association, corporation, or group that has been approved and authorized by the Department pursuant to subsection (b)(2) of this Section upon the continuing education course or program submitted and presented.
  - 2) Entities seeking a license as a CE sponsor shall file a sponsor application, along with the required fee of \$500. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:
    - A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) of this Section and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;
    - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of attendance as set forth in subsection (c)(2) of this Section;
    - C) That, upon request by the Department, the sponsor will submit such evidence as is necessary to establish compliance with this Section. Such evidence shall be required when the Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
    - 3) Each sponsor shall submit a written notice to the Department of a course offering at least 30 days prior to the course date. The notice shall include a course outline and the location, date and time the course is to be offered. The notice shall also contain the credit hours earned upon successful completion of the course.
    - 4) Each sponsor shall submit by April 30 of each odd numbered year a sponsor application along with the \$500 renewal fee. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the

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prerenewal period, which includes a description, location, date and time the course was offered.

- 5) Each CE program shall provide a mechanism for written evaluation of the program and instructor by the participants. Such evaluation forms shall be kept for 5 years and shall be made available to the Department upon written request.

- 6) All courses and programs shall:

- A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the field of veterinary care;
- B) Provide experiences which contain scientific integrity, relevant subject matter and course materials; and
- C) Be developed and presented by persons with education and/or experience in the subject matter of the program.

- 7) All programs given by approved sponsors shall be open to all licensed respiratory care therapists and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

- 8) Certificate of Attendance

A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:

- i) The name and address of the sponsor;
- ii) The name and address of the participant; and his/her i) respiratory care practitioner license number;
- iii) A detailed statement of the subject matter;
- iv) The number of hours actually attended in each topic;
- v) The date of the program.

- B) The sponsor shall maintain these records for not less than 5 years.

- 9) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive credit for time not actually spent attending the program.

- 10) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Department, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1100) shall thereafter refuse to accept CE credit for attendance at or participation in any of that sponsor's CE programs until such time as the Department receives reasonably satisfactory assurances of compliance with this section.

- d) Continuing education earned in Other States. If a licensee has earned CE toward full compliance in Illinois that licensee will be given credit toward full compliance in Illinois that applicant shall submit an application along with a \$20 processing fee within 90 days after completion of the course. The Board shall review and recommend approval or disapproval of this program using the criteria

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set forth in this Section.

- e) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a) above.

- 2) The Department may require additional evidence demonstrating compliance with CE requirements if it is the responsibility of the renewal applicant to retain or otherwise produce evidence of such compliance.

- 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as provided by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

- f) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 75(d) of the Act, a statement setting forth the facts concerning such non-compliance, and a request for waiver of the CE requirements on the basis of such facts. If the Department, upon the written recommendation of the Board, finds from such evidence that the applicant has demonstrated good cause for being shown for granting a waiver, the Department shall waive enforcement of such requirements for the renewal period for which the applicant has applied.

- 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

- A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or
- B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
  - i) An incapacitating illness documented by a currently licensed physician,
  - ii) A physical inability to travel to the sites of approved programs, or
  - iii) Any other similar extenuating circumstances.

- 3) If an interview with the Board is requested at the time the request for waiver is filed, the renewal application shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.

- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

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## Section 1456.120 Granting Variances

- a) The Director may grant variances from this Part in individual cases where he or she finds that:
- 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons therefor, at the next meeting of the Board.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENTS

## 1) Heading of the Part: Medical Payment

## 2) Code Citation: 89 Ill. Adm. Code 140

## 3) Section Numbers: Proposed Action:

140.3 Amendment

140.5 Amendment

140.420 Amendment

140.421 Amendment

## 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ICS 9/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments restore coverage for a limited range of emergency dental services for adults. The State's budget plan for fiscal year 1996 called for cost containment measures in some areas of the Department's medical assistance program and coverage for some optional Medicaid funded care, including dental services, was eliminated for recipients age 21 or over. This reduced medical coverage has also affected recipients of financial assistance under General Assistance for the State Transitional Program and the State Family and Children Program. However, since implementation of this reduced coverage in July 1995, many medical assistance clients have sought treatment in hospital emergency rooms for emergency dental care. Because of this, it has been decided that the needs of clients and the requirements for cost containment could best be met by reinstating coverage for some emergency dental services. Sections 140.3 and 140.5 describe the population eligible for these services, and Sections 140.420 and 140.421 define the dental services to be covered.

This increase in dental coverage will result in an annual expenditure of approximately \$6 million. However, it is expected that this amount will be offset by a reduction in services provided in more costly hospital environments.

## 6) Will these proposed amendments replace emergency amendments currently in effect? Yes

## 7) Does this rulemaking contain an automatic repeal date? No

## 8) Do these proposed amendments contain incorporations by reference? No

## 9) Are there any other proposed amendments pending on this Part? Yes

## Section Proposed Action Illinois Register Citation

140.463 Amendment

December 27, 1996 (20 Ill. Reg. 16153)

140.569 Amendment

July 26, 1996 (20 Ill. Reg. 9810)

## DEPARTMENT OF PUBLIC AID

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- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

- 11) Time, Place, and Manner in which Interested Persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones  
Bureau of Rules and Regulations  
Illinois Department of Public Aid  
100 South Grand Ave., E., 3rd Floor  
Springfield, Illinois 62762  
Phone: (217) 524-0061

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

Any interested persons may review these amendments at the Department of Public Aid's local offices located in each county (except Cook County). In Cook County, the amendments may be reviewed at the Office of the Director, Illinois Department of Public Aid, 310 South Michigan Avenue, Suite 1700, Chicago, Illinois. The amendments may be reviewed at all offices Monday through Friday from 8:30 A.M. until 5:00 P.M. These copies of the amendments are being made available for review in accordance with federal requirements at 42 CFR 447.205.

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80, and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 12) Initial Regulatory Flexibility Analysis:

- A) Times of small businesses, small municipalities and not-for-profit corporations affected: The Department is unaware of any effect this rulemaking may have on small businesses, small municipalities or not-for-profit corporations. The Department will accept and consider any written comments concerning such effects that may be submitted in

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response to these proposed amendments.

- B) Reporting, bookkeeping or other procedures required for compliance: None

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which appears in this issue of the Register on page \_\_\_\_\_.

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Community Living Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 370
- 3) Section Numbers: Proposed Action:  
370.715 Amendments
- 4) Statutory Authority: Community Living Facilities Act (210 ILCS 35)
- 5) A Complete Description of the Subjects and Issues Involved: The rules in Part 370 regulate the licensure of Community Living Facilities under the Community Living Facilities Act (Act). The rules are being amended in response to P.A. 89-674 (S.B. 1544, effective August 14, 1996), which amended the Health Care Worker Background Check Act.

Section 370.715 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include language from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, in accordance with P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (f) states that the Department may accept the results of a fingerprint-based check if the individual has a photograph and a person who already had the fingerprint check done. Subsection (g) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

DEPARTMENT OF PUBLIC HEALTH  
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- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Community Living Facilities
- B) Regulating, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.
- C) Types of Professional Skills Necessary for Compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page.

DEPARTMENT OF PUBLIC HEALTH  
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TITLE 77: PUBLIC HEALTH  
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 370  
COMMUNITY LIVING FACILITIES CODE

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**AUTHORITY:** Implementing and authorized by the Community Living Facilities Act [210 ILCS 35].

[illegible]

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## Section 370.715 Health Care Worker Background Check

a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if



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that person has been convicted or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (225 ILCS 46/25)):

- 1) Murder, homicide, manslaughter or concealment of a homicide (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3) of the Criminal Code of 1961 [720 ICLS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly ILL. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); ILL. Rev. Stat. 1985, ch. 38, par. 9-1.1, 9-1.1.1, 9-1.1.2, 9-1.1.3, 9-1.1.4, 9-1.1.5, 9-1.1.6, 9-1.1.7, 9-1.1.8, 9-1.1.9, 9-1.1.10, 9-1.1.11, 9-1.1.12, 9-1.1.13, 9-1.1.14, 9-1.1.15, 9-1.1.16, 9-1.1.17, 9-1.1.18, 9-1.1.19, 9-1.1.20, 9-1.1.21, 9-1.1.22, 9-1.1.23, 9-1.1.24, 9-1.1.25, 9-1.1.26, 9-1.1.27, 9-1.1.28, 9-1.1.29, 9-1.1.30, 9-1.1.31, 9-1.1.32, 9-1.1.33, 9-1.1.34, 9-1.1.35, 9-1.1.36, 9-1.1.37, 9-1.1.38, 9-1.1.39, 9-1.1.40, 9-1.1.41, 9-1.1.42, 9-1.1.43, 9-1.1.44, 9-1.1.45, 9-1.1.46, 9-1.1.47, 9-1.1.48, 9-1.1.49, 9-1.1.50, 9-1.1.51, 9-1.1.52, 9-1.1.53, 9-1.1.54, 9-1.1.55, 9-1.1.56, 9-1.1.57, 9-1.1.58, 9-1.1.59, 9-1.1.60, 9-1.1.61, 9-1.1.62, 9-1.1.63, 9-1.1.64, 9-1.1.65, 9-1.1.66, 9-1.1.67, 9-1.1.68, 9-1.1.69, 9-1.1.70, 9-1.1.71, 9-1.1.72, 9-1.1.73, 9-1.1.74, 9-1.1.75, 9-1.1.76, 9-1.1.77, 9-1.1.78, 9-1.1.79, 9-1.1.80, 9-1.1.81, 9-1.1.82, 9-1.1.83, 9-1.1.84, 9-1.1.85, 9-1.1.86, 9-1.1.87, 9-1.1.88, 9-1.1.89, 9-1.1.90, 9-1.1.91, 9-1.1.92, 9-1.1.93, 9-1.1.94, 9-1.1.95, 9-1.1.96, 9-1.1.97, 9-1.1.98, 9-1.1.99, 9-1.1.100, 9-1.1.101, 9-1.1.102, 9-1.1.103, 9-1.1.104, 9-1.1.105, 9-1.1.106, 9-1.1.107, 9-1.1.108, 9-1.1.109, 9-1.1.110, 9-1.1.111, 9-1.1.112, 9-1.1.113, 9-1.1.114, 9-1.1.115, 9-1.1.116, 9-1.1.117, 9-1.1.118, 9-1.1.119, 9-1.1.120, 9-1.1.121, 9-1.1.122, 9-1.1.123, 9-1.1.124, 9-1.1.125, 9-1.1.126, 9-1.1.127, 9-1.1.128, 9-1.1.129, 9-1.1.130, 9-1.1.131, 9-1.1.132, 9-1.1.133, 9-1.1.134, 9-1.1.135, 9-1.1.136, 9-1.1.137, 9-1.1.138, 9-1.1.139, 9-1.1.140, 9-1.1.141, 9-1.1.142, 9-1.1.143, 9-1.1.144, 9-1.1.145, 9-1.1.146, 9-1.1.147, 9-1.1.148, 9-1.1.149, 9-1.1.150, 9-1.1.151, 9-1.1.152, 9-1.1.153, 9-1.1.154, 9-1.1.155, 9-1.1.156, 9-1.1.157, 9-1.1.158, 9-1.1.159, 9-1.1.160, 9-1.1.161, 9-1.1.162, 9-1.1.163, 9-1.1.164, 9-1.1.165, 9-1.1.166, 9-1.1.167, 9-1.1.168, 9-1.1.169, 9-1.1.170, 9-1.1.171, 9-1.1.172, 9-1.1.173, 9-1.1.174, 9-1.1.175, 9-1.1.176, 9-1.1.177, 9-1.1.178, 9-1.1.179, 9-1.1.180, 9-1.1.181, 9-1.1.182, 9-1.1.183, 9-1.1.184, 9-1.1.185, 9-1.1.186, 9-1.1.187, 9-1.1.188, 9-1.1.189, 9-1.1.190, 9-1.1.191, 9-1.1.192, 9-1.1.193, 9-1.1.194, 9-1.1.195, 9-1.1.196, 9-1.1.197, 9-1.1.198, 9-1.1.199, 9-1.1.200, 9-1.1.201, 9-1.1.202, 9-1.1.203, 9-1.1.204, 9-1.1.205, 9-1.1.206, 9-1.1.207, 9-1.1.208, 9-1.1.209, 9-1.1.210, 9-1.1.211, 9-1.1.212, 9-1.1.213, 9-1.1.214, 9-1.1.215, 9-1.1.216, 9-1.1.217, 9-1.1.218, 9-1.1.219, 9-1.1.220, 9-1.1.221, 9-1.1.222, 9-1.1.223, 9-1.1.224, 9-1.1.225, 9-1.1.226, 9-1.1.227, 9-1.1.228, 9-1.1.229, 9-1.1.230, 9-1.1.231, 9-1.1.232, 9-1.1.233, 9-1.1.234, 9-1.1.235, 9-1.1.236, 9-1.1.237, 9-1.1.238, 9-1.1.239, 9-1.1.240, 9-1.1.241, 9-1.1.242, 9-1.1.243, 9-1.1.244, 9-1.1.245, 9-1.1.246, 9-1.1.247, 9-1.1.248, 9-1.1.249, 9-1.1.250, 9-1.1.251, 9-1.1.252, 9-1.1.253, 9-1.1.254, 9-1.1.255, 9-1.1.256, 9-1.1.257, 9-1.1.258, 9-1.1.259, 9-1.1.260, 9-1.1.261, 9-1.1.262, 9-1.1.263, 9-1.1.264, 9-1.1.265, 9-1.1.266, 9-1.1.267, 9-1.1.268, 9-1.1.269, 9-1.1.270, 9-1.1.271, 9-1.1.272, 9-1.1.273, 9-1.1.274, 9-1.1.275, 9-1.1.276, 9-1.1.277, 9-1.1.278, 9-1.1.279, 9-1.1.280, 9-1.1.281, 9-1.1.282, 9-1.1.283, 9-1.1.284, 9-1.1.285, 9-1.1.286, 9-1.1.287, 9-1.1.288, 9-1.1.289, 9-1.1.290, 9-1.1.291, 9-1.1.292, 9-1.1.293, 9-1.1.294, 9-1.1.295, 9-1.1.296, 9-1.1.297, 9-1.1.298, 9-1.1.299, 9-1.1.300, 9-1.1.301, 9-1.1.302, 9-1.1.303, 9-1.1.304, 9-1.1.305, 9-1.1.306, 9-1.1.307, 9-1.1.308, 9-1.1.309, 9-1.1.310, 9-1.1.311, 9-1.1.312, 9-1.1.313, 9-1.1.314, 9-1.1.315, 9-1.1.316, 9-1.1.317, 9-1.1.318, 9-1.1.319, 9-1.1.320, 9-1.1.321, 9-1.1.322, 9-1.1.323, 9-1.1.324, 9-1.1.325, 9-1.1.326, 9-1.1.327, 9-1.1.328, 9-1.1.329, 9-1.1.330, 9-1.1.331, 9-1.1.332, 9-1.1.333, 9-1.1.334, 9-1.1.335, 9-1.1.336, 9-1.1.337, 9-1.1.338, 9-1.1.339, 9-1.1.340, 9-1.1.341, 9-1.1.342, 9-1.1.343, 9-1.1.344, 9-1.1.345, 9-1.1.346, 9-1.1.347, 9-1.1.348, 9-1.1.349, 9-1.1.350, 9-1.1.351, 9-1.1.352, 9-1.1.353, 9-1.1.354, 9-1.1.355, 9-1.1.356, 9-1.1.357, 9-1.1.358, 9-1.1.359,

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of 1961 [720 ICS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, Sections 62, 207-218, 240-244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387-388, 389, 393-400, 404a-404c, 438, 492-496)).

- 9) Financial exploitation of an elderly or disabled person (Section 16-3 of the Criminal Code of 1961 [720 ILCS 5/16-3] (formerly Ill. Rev. Stat. 1991, ch. 38, para. 16-3.1))
- 10) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, para. 18-1 and 18-2))
- 11) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, para. 19-1 and 19-3))
- 12) Rape, aggravated rape, sexual abuse, sexual assault (Sections 26-1, 26-2, 26-3, 26-4, 26-5, 26-6, 26-7, 26-8, 26-9, 26-10, 26-11, 26-12, 26-13, 26-14, 26-15, 26-16, 26-17, 26-18, 26-19, 26-20, 26-21, 26-22, 26-23, 26-24, 26-25, 26-26, 26-27, 26-28, 26-29, 26-30, 26-31, 26-32, 26-33, 26-34, 26-35, 26-36, 26-37, 26-38, 26-39, 26-40, 26-41, 26-42, 26-43, 26-44, 26-45, 26-46, 26-47, 26-48, 26-49, 26-50, 26-51, 26-52, 26-53, 26-54, 26-55, 26-56, 26-57, 26-58, 26-59, 26-60, 26-61, 26-62, 26-63, 26-64, 26-65, 26-66, 26-67, 26-68, 26-69, 26-70, 26-71, 26-72, 26-73, 26-74, 26-75, 26-76, 26-77, 26-78, 26-79, 26-80, 26-81, 26-82, 26-83, 26-84, 26-85, 26-86, 26-87, 26-88, 26-89, 26-90, 26-91, 26-92, 26-93, 26-94, 26-95, 26-96, 26-97, 26-98, 26-99, 26-100, 26-101, 26-102, 26-103, 26-104, 26-105, 26-106, 26-107, 26-108, 26-109, 26-110, 26-111, 26-112, 26-113, 26-114, 26-115, 26-116, 26-117, 26-118, 26-119, 26-120, 26-121, 26-122, 26-123, 26-124, 26-125, 26-126, 26-127, 26-128, 26-129, 26-130, 26-131, 26-132, 26-133, 26-134, 26-135, 26-136, 26-137, 26-138, 26-139, 26-140, 26-141, 26-142, 26-143, 26-144, 26-145, 26-146, 26-147, 26-148, 26-149, 26-150, 26-151, 26-152, 26-153, 26-154, 26-155, 26-156, 26-157, 26-158, 26-159, 26-160, 26-161, 26-162, 26-163, 26-164, 26-165, 26-166, 26-167, 26-168, 26-169, 26-170, 26-171, 26-172, 26-173, 26-174, 26-175, 26-176, 26-177, 26-178, 26-179, 26-180, 26-181, 26-182, 26-183, 26-184, 26-185, 26-186, 26-187, 26-188, 26-189, 26-190, 26-191, 26-192, 26-193, 26-194, 26-195, 26-196, 26-197, 26-198, 26-199, 26-200, 26-201, 26-202, 26-203, 26-204, 26-205, 26-206, 26-207, 26-208, 26-209, 26-210, 26-211, 26-212, 26-213, 26-214, 26-215, 26-216, 26-217, 26-218, 26-219, 26-220, 26-221, 26-222, 26-223, 26-224, 26-225, 26-226, 26-227, 26-228, 26-229, 26-230, 26-231, 26-232, 26-233, 26-234, 26-235, 26-236, 26-237, 26-238, 26-239, 26-240, 26-241, 26-242, 26-243, 26-244, 26-245, 26-246, 26-247, 26-248, 26-249, 26-250, 26-251, 26-252, 26-253, 26-254, 26-255, 26-256, 26-257, 26-258, 26-259, 26-260, 26-261, 26-262, 26-263, 26-264, 26-265, 26-266, 26-267, 26-268, 26-269, 26-270, 26-271, 26-272, 26-273, 26-274, 26-275, 26-276, 26-277, 26-278, 26-279, 26-280, 26-281, 26-282, 26-283, 26-284, 26-285, 26-286, 26-287, 26-288, 26-289, 26-290, 26-291, 26-292, 26-293, 26-294, 26-295, 26-296, 26-297, 26-298, 26-299, 26-300, 26-301, 26-302, 26-303, 26-304, 26-305, 26-306, 26-307, 26-308, 26-309, 26-310, 26-311, 26-312, 26-313, 26-314, 26-315, 26-316, 26-317, 26-318, 26-319, 26-320, 26-321, 26-322, 26-323, 26-324, 26-325, 26-326, 26-327, 26-328, 26-329, 26-330, 26-331, 26-332, 26-333, 26-334, 26-335, 26-336, 26-337, 26-338, 26-339, 26-340, 26-341, 26-342, 26-343, 26-344, 26-345, 26-346, 26-347, 26-348, 26-349, 26-350, 26-351, 26-352, 26-353, 26-354, 26-355, 26-356, 26-357, 26-358, 26-359, 26-360, 26-361, 26-362, 26-363, 26-364, 26-365, 26-366, 26-367, 26-368, 26-369, 26-370, 26-371, 26-372, 26-373, 26-374, 26-375, 26-376, 26-377, 26-378, 26-379, 26-380, 26-381, 26-382, 26-383, 26-384, 26-385, 26-386, 26-387, 26-388, 26-389, 26-390, 26-391, 26-392, 26-393, 26-394, 26-395, 26-396, 26-397, 26-398, 26-399, 26-400, 26-401, 26-402, 26-403, 26-404, 26-405, 26-406, 26-407, 26-408, 26-409, 26-410, 26-411, 26-412, 26-413, 26-414, 26-415, 26-416, 26-417, 26-418, 26-419, 26-420, 26-421, 26-422, 26-423, 26-424, 26-425, 26-426, 26-427, 26-428, 26-429, 26-430, 26-431, 26-432, 26-433, 26-434, 26-435, 26-436, 26-437, 26-438, 26-439, 26-440, 26-441, 26-442, 26-443, 26-444, 26-445, 26-446, 26-447, 26-448, 26-449, 26-450, 26-451, 26-452, 26-453, 26-454, 26-455, 26-456, 26-457, 26-458, 26-459, 26-460, 26-461, 26-462, 26-463, 26-464, 26-465, 26-466, 26-467, 26-468, 26-469, 26-470, 26-471, 26-472, 26-473, 26-474, 26-475, 26-476, 26-477, 26-478, 26-479, 26-480, 26-481, 26-482, 26-483, 26-484, 26-485, 26-486, 26-487, 26-488, 26-489, 26-490,

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of "employment" by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.

3) "direct care" means means the provision of nursing or personal care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual.

4) "jurisdiction" means the obtaining of the authorization for a record check pursuant to the Department of State Police. (Section 15 of the Health Care Worker Background Check Act).

4) "personal-care" means assistance with eating, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of a resident. (Section 15 of the Health Care Worker Background Check Act).

d) Beginning January 1, 1996, the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (b) (4) of this Section, for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.

e) The facility must transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act).

e) No later than January 1, 1997, a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996, and who are not exempt because of subsection (4) of this Section with duties that involve direct care for residents. (Section 30(d) of the Health Care Worker Background Check Act).

f) The facility agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employer must be notified of the following whenever a non-fingerprint UCIA criminal history record check search is made:

1) That the facility will request State Police to request on its behalf a non-fingerprint-based UCIA criminal history record check pursuant

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to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsection (4) of this Section.

4) That the applicant if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (4) and (4) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (4) and (4) of this Section.

h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act).

i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request that the facility or its designee the Department to commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act).

1) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The

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facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the Department by submitting the following to within five working 30 days after the receipt of the criminal records report:

1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and

2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

l) The Department may accept the results of the Fingerprint-Based UCIA (k)(1) and (2) above check, instead of the items required by subsections (k)(1) and (2) above.

m) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;

5) The applicant's or employee's work history;

6) The applicant's or employee's current employment references;

7) The applicant's or employee's character references;

8) Nurse Aide Registry records; and

9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health and safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f)(4) of the Health Care Worker Background Check Act)

p) This Section shall not apply to:

1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or

2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State.

Section 28 of the Health Care Worker Background

## DEPARTMENT OF PUBLIC HEALTH

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check Act); or

3) Limited to a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

q) The facility shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

r) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse-aides who are on the Department's Nurse-Aide Registry. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

s) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospital Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 250

3) Section Numbers: Proposed Action:  
250.435 Amendments

4) Statutory Authority: Hospital Licensing Act (210 ILCS 85)

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 250 regulate the licensure of hospitals under the Hospital Licensing Act (Act). The rules are being amended in response to P.A. 89-674 (S.B. 1344, effective August 14, 1996), which amended the Health Care Worker Background Check Act.

Section 250.435 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include language from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, in accordance with P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (f) states that the Department may accept the results of a new background check if the individual requesting a personal background check has already had the fingerprint check done (Subsection (a) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in this *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

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7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
531 North Dearborn, Fifth Floor  
Springfield, Illinois 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Hospitals
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.
- C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section	
250.110	Application for and Issuance of Permit to Establish a Hospital
250.120	Application for and Issuance of a License to Operate a Hospital
250.130	Administration by the Department
250.140	Hearings
250.150	Definitions
250.160	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION AND PLANNING

Section	
250.210	The Governing Board
250.220	Accounting
250.230	Planning
250.240	Admission and Discharge
250.250	Visiting Rules
250.260	Patients' Rights
250.265	Language Assistance Services
250.270	Management of Procedures
250.280	Agreement with Designated Organ Procurement Agencies

SUBPART C: THE MEDICAL STAFF

Section	
250.310	Organization
250.315	House Staff Members
250.320	Admission and Supervision of Patients
250.330	Orders for Medications and Treatments
250.340	Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section	
250.410	Organization
250.420	Personnel Records
250.430	Personnel Policies
250.435	Health Care Worker Background Check
250.440	Education Programs
250.450	Personnel Health Requirements

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Benefits

SUBPART E: LABORATORY

Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.525	Designated Blood Donor Program
250.530	Efficiency Survey Program (Repealed)
250.540	Licensure of Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICE

Section	
250.710	Classification of Emergency Services
250.720	General Requirements
250.725	Notification of Emergency Personnel
250.730	Community or Areawide Planning
250.740	Disaster and Mass Casualty Program
250.750	Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section	
250.810	Applicability of Other Parts of These Requirements
250.820	General
250.830	Classifications of Restorative and Rehabilitation Services
250.840	General Requirements for all Classifications
250.850	Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860	Medical Direction
250.870	Nursing Care
250.880	Additional Allied Health Services

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section	
250.910	Nursing Services
250.920	Organizational Plan
250.930	Role in hospital planning

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250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1010	Education Programs
250.1020	Licensure
250.1030	Policies and Procedures
250.1040	Patient Care Units
250.1050	Equipment for Bedside Care
250.1060	Diagnostic Services
250.1070	Care of Patients
250.1080	Admission Procedures Affecting Care
250.1090	Sterilization and Processing of Supplies
250.1100	Infection Control

## SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section	Surgery
250.1210	Surgery Staff
250.1220	Policies & Procedures
250.1230	Surgical Privileges
250.1250	Surgical Emergency Care
250.1260	Operating Room Register
250.1280	Surgical Patients
250.1290	Safeguards
250.1290	Safeguards
250.1300	Operating Room
250.1305	Visitors in Operating Room
250.1310	Cleaning of Operating Room
250.1320	Regulations for Postoperative Recovery Facilities

## SUBPART K: ANESTHESIA SERVICES

Section	Anesthesia Service
250.1410	

## SUBPART L: RECORDS AND REPORTS

Section	Medical Records
250.1510	Reports
250.1520	

## SUBPART M: FOOD SERVICE

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Section	Dietary Department Administration
250.1610	Facilities
250.1620	Menus and Nutritional Adequacy
250.1630	Diet Orders
250.1640	Frequency of Meals
250.1650	Therapeutic (Modified) Diets
250.1660	Food Preparation and Service
250.1670	Sanitation
250.1680	

## SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section	Housekeeping
250.1710	Garbage, Refuse and Solid Waste Handling and Disposal
250.1720	Insect and Rodent Control
250.1730	Laundry Service
250.1740	Soiled Linen
250.1750	Clean Linen
250.1760	

## SUBPART O: MATERNITY AND NEONATAL SERVICE

Section	Applicability of other Parts of these regulations
250.1810	Maternity and Neonatal Service (Perinatal Service)
250.1820	General Requirements for all Maternity Departments
250.1830	Discharge of Newborn Infants from Hospital
250.1840	Rooming-in Care of Mother and Infant
250.1850	Special Programs
250.1860	Single Room Maternity Care
250.1870	

## SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS--HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section	Maintenance
250.1910	Emergency electric service
250.1920	Water Supply
250.1930	Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1940	Grounds and Buildings Shall be Maintained
250.1950	Sewage, Garbage, Solid Waste Handling and Disposal
250.1960	Plumbing
250.1970	Fire and Safety
250.1980	

## SUBPART Q: CHRONIC DISEASE HOSPITALS



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Section  
250.2010  
Requirements

## SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section  
250.2100  
Service Requirements  
250.2110  
Pharmaceuticals  
250.2130  
Facilities for Services  
250.2140  
Pharmacy and Therapeutics Committee

## SUBPART S: PSYCHIATRIC SERVICES

Section  
250.2210  
Applicability of other Parts of these Regulations  
250.2220  
Establishment of a Psychiatric Service  
250.2230  
The Medical Staff  
250.2240  
Nursing Service  
250.2250  
Allied Health Personnel  
250.2260  
Staff and Personnel Development and Training  
250.2270  
Admission, Transfer and Discharge Procedures  
250.2280  
Care of Patients  
250.2290  
Special Medical Record Requirements for Psychiatric Hospitals and  
Psychiatric Units of General Hospitals or General Hospitals  
Providing Psychiatric Care  
Diagnostic, Treatment and Physical Facilities and Services

## SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section  
250.2410  
Applicability of these Standards  
250.2420  
Submission of Plans for New Construction, Alterations or Additions  
to Existing Facility  
250.2430  
Preparation of Drawings and Specifications -- Submission  
Requirements  
250.2440  
General Hospital Standards  
250.2450  
Details  
250.2460  
Finishes  
250.2470  
Structural  
250.2480  
Mechanical  
250.2490  
Planning and Other Piping Systems  
250.2500  
Electrical Requirements

## SUBPART U: CONSTRUCTION STANDARDS FOR EXISTING HOSPITALS

Section  
250.2610  
Applicability of these Standards

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250.2620  
Codes and Standards  
250.2630  
Existing General Hospital Standards  
250.2640  
Details  
250.2650  
Finishes  
250.2660  
Mechanical  
250.2670  
Plumbing and Other Piping Systems  
250.2680  
Electrical Requirements

## SUBPART V: SPECIAL CARE AND SPECIAL SERVICE UNITS

Section  
250.2710  
Special Care and/or Special Service Units  
250.2720  
Day Care for Mildly Ill Children

## SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section  
250.2810  
Applicability of Other Parts of These Requirements  
250.2820  
Establishment of an Alcoholism and Intoxication Treatment Service  
250.2830  
Classification and Definitions of Service and Programs  
250.2840  
General Requirements for all Hospital Alcoholism Program  
Classifications  
250.2850  
The Medical and Professional Staff  
250.2860  
Medical Records  
250.2870  
Referral and Consultation  
250.2880  
Client Legal and Human Rights

## ILLUSTRATION A Seismic Zone Map

## APPENDIX A Codes and Standards (Repealed)

EXHIBIT A  
Codes (Repealed)  
EXHIBIT B  
Standards (Repealed)  
EXHIBIT C  
Addresses of Sources (Repealed)  
TABLE A  
Measurements Essential for Level I, II, III Hospitals  
TABLE B  
Sound Transmission Limitations in General Hospitals  
TABLE C  
Filter Efficiencies for Central Ventilation and Air Conditioning  
Systems in General Hospitals (Repealed)  
TABLE D  
General Pressure Relationships and Ventilation of Certain Hospital  
Areas (Repealed)  
TABLE E  
Piping Locations for Oxygen, Vacuum and Medical Compressed Air  
TABLE F  
General Pressure Relationships and Ventilation of Certain Hospital  
Areas  
TABLE G  
Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act (210 ILCS 85).

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of







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finger-print-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j)-(k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j)-(k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has been convicted of any of the criminal offenses enumerated in subsection (a)(1)-(13) of this Section unless the employee's applicant record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j)-(k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

h) A hospital may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request that the hospital or its designee commence a fingerprint-based UCIA criminal records check pursuant to subsection (i) of this Section and submit a form and number prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

1) A hospital having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The hospital may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

1a) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following by submitting the following to the Department within 30 five working days after the receipt of the criminal records report:

1) That the applicant or employee receives a UCIA criminal records check from the Department of State Police pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j)-(k) of this Section (which the Department will forward to the Illinois State Police);

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and

2) A certified check, money order or hospital check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

1) The Department may accept the result of the fingerprint-based UCIA Criminal Records check instead of the items required by subsections (k)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

2) The Department may grant a waiver based on mitigating circumstances, which may include:

1) The age at which the crime was committed;  
2) The circumstances surrounding the crime;  
3) The length of time since the conviction;  
4) The applicant's or employee's criminal history since the conviction;  
5) The applicant's or employee's work history;  
6) The applicant's or employee's current employment references;  
7) The applicant's or employee's character references;  
8) Nurse Aide Registry records; and  
9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients. (Section 40(b) of the Health Care Worker Background Check Act)

2) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

3) A hospital is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(d)(1) of the Health Care Worker Background Check Act)

4) This Act shall not apply to an individual who is licensed by the Department of Public Health or the Department of Professional Regulation or the Department of Public Health under another law of the State; or

5) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State pursuant to Section 20 of the Health-Care-Worker-Background Check Act i of

6) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for patients. (Section 20 of the Health Care Worker Background Check Act)

9) The hospital shall send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The hospital shall include the

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individual's Social Security number on the criminal history record check results.

1) The hospital shall retain on file for a period of 5 years records of criminal records requests for all employees other than nurse-aides who are on the Department's Nurse Aide Registry. The hospital shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the employee's employment. The hospital shall still be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 90 of the Health Care Worker Background Check Act)

2) The hospital shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Home Health Agency Code

2) Code Citation: 77 Ill. Adm. Code 245

3) Section Numbers: Proposed Action:  
245.72 Amendments

4) Statutory Authority: Home Health Agency Licensing Act (210 ILCS 55)

5) A Complete Description of the Subjects and Issues Involved: The rules in Part 245 regulate the licensure of home health agencies under the Home Health Agency Licensing Act (Act). The rules are being amended in response to P.A. 89-674 (S.B. 1544, effective August 14, 1996), which amended the Health Care Worker Background Check Act.

Section 245.72 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, burglary and sexual offenses are stated so clearly that they are disqualifying crimes. The definition of "discharge" is amended to include discharges from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, in accordance with P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (1) states that the Department may accept the results of a fingerprint-based UCIA criminal records check if a person requesting a waiver has already had the fingerprint check done. Subsection (n) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the Illinois Register.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

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- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing with 45 days after this issue of the *Illinois Register* to:

Mr. Gall M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gall M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses: Small Municipalities and Not-for-Profit Corporations Affected: Home health agencies
- B) Regulations, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH  
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TITLE 77: PUBLIC HEALTH  
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245  
ILLINOIS HOME HEALTH AGENCY CODE  
SUBPART A: GENERAL PROVISIONS

Section  
245-10 Purpose  
245-20 Definitions  
245-25 Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section  
245-30 Organization and Administration  
245-40 Staffing and Staff Responsibilities  
245-50 Services  
245-60 Annual Financial Statement  
245-70 Home Health Aide Training  
245-72 Health Care Worker Background Check

SUBPART C: LICENSURE PROCEDURES

Section  
245-80 Licensure Required  
245-90 License Application  
245-100 Provisional License  
245-110 Inspections and Investigations  
245-120 Violations  
245-130 Administrative Censure Actions  
245-140 Penalties and Fines  
245-150 Hearings

AUTHORITY: Implementing and authorized by the Home Health Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16629; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14



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Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 489, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3773, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: OPERATIONAL REQUIREMENTS

## Section 245.72 Health Care Worker Background Check

- a) The agency shall not knowingly hire any individual after January 1, 1996, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (225 ILCS 46/25)):
- 1) Murder, homicide, manslaughter, or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 (720 ILCS 5/9-1, 9-1.2, 9-2, 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 3, 236, 356, 360, 361, 362, 363, 364, 365A, 365, 370, 372, 373A, 417, and 471);
  - 2) Kidnaping of child and abduction of child (Sections 10-2, 10-5 and 10-7 of the Criminal Code of 1961 (720 ILCS 5/10-2, 10-5, and 10-7) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, Sections 384-386);
  - 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 (720 ILCS 5/10-3, 10-3.1, and 10-4) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, Sections 252, 252.1, and 252.4);
  - 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 (720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 35, 36, and 36A-65);
  - 5) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 (720 ILCS 5/24-1 and 24-1.2) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2); Ill. Rev. Stat. 1961, ch. 38, Sections 152, 152A, 153, 155A-155B, 155A-155C, 155A-155D, 155A-155E, 155A-155F, 155A-155G, 155A-155H, 155A-155I, 155A-155J, 155A-155K, 155A-155L, 155A-155M, 155A-155N, 155A-155O, 155A-155P, 155A-155Q, 155A-155R, 155A-155S, 155A-155T, 155A-155U, 155A-155V, 155A-155W, 155A-155X, 155A-155Y, 155A-155Z, 155A-155AA, 155A-155AB, 155A-155AC, 155A-155AD, 155A-155AE, 155A-155AF, 155A-155AG, 155A-155AH, 155A-155AI, 155A-155AJ, 155A-155AK, 155A-155AL, 155A-155AM, 155A-155AN, 155A-155AO, 155A-155AP, 155A-155AQ, 155A-155AR, 155A-155AS, 155A-155AT, 155A-155AU, 155A-155AV, 155A-155AW, 155A-155AX, 155A-155AY, 155A-155AZ, 155A-155BA, 155A-155BB, 155A-155BC, 155A-155BD, 155A-155BE, 155A-155BF, 155A-155BG, 155A-155BH, 155A-155BI, 155A-155BJ, 155A-155BK, 155A-155BL, 155A-155BM, 155A-155BN, 155A-155BO, 155A-155BP, 155A-155BQ, 155A-155BR, 155A-155BS, 155A-155BT, 155A-155BU, 155A-155BV, 155A-155BW, 155A-155BX, 155A-155BY, 155A-155BZ, 155A-155CA, 155A-155CB, 155A-155CC, 155A-155CD, 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155A-155FJ, 155A-155FK, 155A-155FL, 155A-155FM, 155A-155FN, 155A-155FO, 155A-155FP, 155A-155FQ, 155A-155FR, 155A-155FS, 155A-155FT, 155A-155FU, 155A-155FV, 155A-155FW, 155A-155FX, 155A-155FY, 155A-155FZ, 155A-155GA, 155A-155GB, 155A-155GC, 155A-155GD, 155A-155GE, 155A-155GF, 155A-155GG, 155A-155GH, 155A-155GI, 155A-155GJ, 155A-155GK, 155A-155GL, 155A-155GM, 155A-155GN, 155A-155GO, 155A-155GP, 155A-155GQ, 155A-155GR, 155A-155GS, 155A-155GT, 155A-155GU, 155A-155GV, 155A-155GW, 155A-155GX, 155A-155GY, 155A-155GZ, 155A-155HA, 155A-155HB, 155A-155HC, 155A-155HD, 155A-155HE, 155A-155HF, 155A-155HG, 155A-155HH, 155A-155HI, 155A-155HJ, 155A-155HK, 155A-155HL, 155A-155HM, 155A-155HN, 155A-155HO, 155A-155HP, 155A-155HQ, 155A-155HR, 155A-155HS, 155A-155HT, 155A-155HU, 155A-155HV, 155A-155HW, 155A-155HX, 155A-155HY, 155A-155HZ, 155A-155IA, 155A-155IB, 155A-155IC, 155A-155ID, 155A-155IE, 155A-155IF, 155A-155IG, 155A-155IH, 155A-155II, 155A-155IJ, 155A-155IK, 155A-155IL, 155A-155IM, 155A-155IN, 155A-155IO, 155A-155IP, 155A-155IQ, 155A-155IR, 155A-155IS, 155A-155IT, 155A-155IU, 155A-155IV, 155A-155IW, 155A-155IX, 155A-155IY, 155A-155IZ, 155A-155JA, 155A-155JB, 155A-155JC, 155A-155JD, 155A-155JE, 155A-155JF, 155A-155JG, 155A-155JH, 155A-155JI, 155A-155JJ, 155A-155JK, 155A-155JL, 155A-155JM, 155A-155JN, 155A-155JO, 155A-155JP, 155A-155JQ, 155A-155JR, 155A-155JS, 155A-155JT, 155A-155JU, 155A-155JV, 155A-155JW, 155A-155JX, 155A-155JY, 155A-155JZ, 155A-155KA, 155A-155KB, 155A-155KC, 155A-155KD, 155A-155KE, 155A-155KF, 155A-155KG, 155A-155KH, 155A-155KI, 155A-155KJ, 155A-155KL, 155A-155KM, 155A-155KN, 155A-155KO, 155A-155KP, 155A-155KQ, 155A-155KR, 155A-155KS, 155A-155KT, 155A-155KU, 155A-155KV, 155A-155KW, 155A-155KX, 155A-155KY, 155A-155KZ, 155A-155LA, 155A-155LB, 155A-155LC, 155A-155LD, 155A-155LE, 155A-155LF, 155A-155LG, 155A-155LH, 155A-155LI, 155A-155LJ, 155A-155LK, 155A-155LL, 155A-155LM, 155A-155LN, 155A-155LO, 155A-155LP, 155A-155LQ, 155A-155LR, 155A-155LS, 155A-155LT, 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155A-155OZ, 155A-155PA, 155A-155PB, 155A-155PC, 155A-155PD, 155A-155PE, 155A-155PF, 155A-155PG, 155A-155PH, 155A-155PI, 155A-155PJ, 155A-155PK, 155A-155PL, 155A-155PM, 155A-155PN, 155A-155PO, 155A-155PP, 155A-155PQ, 155A-155PR, 155A-155PS, 155A-155PT, 155A-155PU, 155A-155PV, 155A-155PW, 155A-155PX, 155A-155PY, 155A-155PZ, 155A-155QA, 155A-155QB, 155A-155QC, 155A-155QD, 155A-155QE, 155A-155QF, 155A-155QG, 155A-155QH, 155A-155QI, 155A-155QJ, 155A-155QK, 155A-155QL, 155A-155QM, 155A-155QN, 155A-155QO, 155A-155QP, 155A-155QQ, 155A-155QR, 155A-155QS, 155A-155QT, 155A-155QU, 155A-155QV, 155A-155QW, 155A-155QX, 155A-155QY, 155A-155QZ, 155A-155RA, 155A-155RB, 155A-155RC, 155A-155RD, 155A-155RE, 155A-155RF, 155A-155RG, 155A-155RH, 155A-155RI, 155A-155RJ, 155A-155RK, 155A-155RL, 155A-155RM, 155A-155RN, 155A-155RO, 155A-155RP, 155A-155RQ, 155A-155RR, 155A-155RS, 155A-155RT, 155A-155RU, 155A-155RV, 155A-155RW, 155A-155RX, 155A-155RY, 155A-155RZ, 155A-155SA, 155A-155SB, 155A-155SC, 155A-155SD, 155A-155SE, 155A-155SF, 155A-155SG, 155A-155SH, 155A-155SI, 155A-155SJ, 155A-155SK, 155A-155SL, 155A-155SM, 155A-155SN, 155A-155SO, 155A-155SP, 155A-155SQ, 155A-155SR, 155A-155SS, 155A-155ST, 155A-155SU, 155A-155SV, 155A-155SW, 155A-155SX, 155A-155SY, 155A-155SZ, 155A-155TA, 155A-155TB, 155A-155TC, 155A-155TD, 155A-155TE, 155A-155TF, 155A-155TG, 155A-155TH, 155A-155TI, 155A-155TJ, 155A-155TK, 155A-155TL, 155A-155TM, 155A-155TN, 155A-155TO, 155A-155TP, 155A-155TQ, 155A-155TR, 155A-155TS, 155A-155TT, 155A-155TU, 155A-155TV, 155A-155TW, 155A-155TX, 155A-155TY, 155A-155TZ, 155A-155UA, 155A-155UB, 155A-155UC, 155A-155UD, 155A-155UE, 155A-155UF, 155A-155UG, 155A-155UH, 155A-155UI, 155A-155UJ, 155A-155UK, 155A-155UL, 155A-155UM, 155A-155UN, 155A-155UO, 155A-155UP, 155A-155UQ, 155A-155UR, 155A-155US, 155A-155UT, 155A-155UU, 155A-155UV, 155A-155UW, 155A-155UX, 155A-155UY, 155A-155UZ, 155A-155VA, 155A-155VB, 155A-155VC, 155A-155VD, 155A-155VE, 155A-155VF, 155A-155VG, 155A-155VH, 155A-155VI, 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155A-155YO, 155A-155YP, 155A-155YQ, 155A-155YR, 155A-155YS, 155A-155YT, 155A-155YU, 155A-155YV, 155A-155YW, 155A-155YX, 155A-155YY, 155A-155YZ, 155A-155ZA, 155A-155ZB, 155A-155ZC, 155A-155ZD, 155A-155ZE, 155A-155ZF, 155A-155ZG, 155A-155ZH, 155A-155ZI, 155A-155ZJ, 155A-155ZK, 155A-155ZL, 155A-155ZM, 155A-155ZN, 155A-155ZO, 155A-155ZP, 155A-155ZQ, 155A-155ZR, 155A-155ZS, 155A-155ZT, 155A-155ZU, 155A-155ZV, 155A-155ZW, 155A-155ZX, 155A-155ZY, 155A-155ZZ).

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 11-4.1; Ill. Rev. Stat. 1961, ch. 38, Sections 109, 141, 142, 490, and 491.1);
- 6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 (720 ILCS 5/12-19) (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
  - 7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 (720 ILCS 5/12-21) (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
  - 8) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 (720 ILCS 5/16-1 and 16A-3) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3); Ill. Rev. Stat. 1961, ch. 38, Sections 62, 207-218, 240-244, 246, 253, 254.1, 258, 262, 262A, 273, 290, 291, 304A, 354, 387-388B, 389, 393-400, 404A-404C, 438, 492-496);
  - 9) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 (720 ILCS 5/16-1.3) (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
  - 10) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 (720 ILCS 5/18-1 and 18-2) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
  - 11) Burglary, armed burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 (720 ILCS 5/19-1 and 19-3) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3); Ill. Rev. Stat. 1961, ch. 38, Sections 84-86, 88 and 501);
  - 12) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 (720 ILCS 5/19-4) (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
  - 13) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 (720 ILCS 5/20-1 and 20-1.1) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1); Ill. Rev. Stat. 1961, ch. 38, Sections 48-53 and 236-238);
  - 14) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 (720 ILCS 5/24-1 and 24-1.2) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2); Ill. Rev. Stat. 1961, ch. 38, Sections 152, 152A, 153, 155A-155B, 155A-155C, 155A-155D, 155A-155E, 155A-155F, 155A-155G, 155A-155H, 155A-155I, 155A-155J, 155A-155K, 155A-155L, 155A-155M, 155A-155N, 155A-155O, 155A-155P, 155A-155Q, 155A-155R, 155A-155S, 155A-155T, 155A-155U, 155A-155V, 155A-155W, 155A-155X, 155A-155Y, 155A-155Z, 155A-155AA, 155A-155AB, 155A-155AC, 155A-155AD, 155A-155AE, 155A-155AF, 155A-155AG, 155A-155AH, 155A-155AI, 155A-155AJ, 155A-155AK, 155A-155AL, 155A-155AM, 155A-155AN, 155A-155AO, 155A-155AP, 155A-155AQ, 155A-155AR, 155A-155AS, 155A-155AT, 155A-155AU, 155A-155AV, 155A-155AW, 155A-155AX, 155A-155AY, 155A-155AZ, 155A-155BA, 155A-155BB, 155A-155BC, 155A-155BD, 155A-155BE, 155A-155BF, 155A-155BG, 155A-155BH, 155A-155BI, 155A-155BJ, 155A-155BK, 155A-155BL, 155A-155BM, 155A-155BN, 155A-155BO, 155A-155BP, 155A-155BQ, 155A-155BR, 155A-155BS, 155A-155BT, 155A-155BU, 155A-155BV, 155A-155BW, 155A-155BX, 155A-155BY, 155A-155BZ, 155A-155CA, 155A-155CB, 155A-155CC, 155A-155CD, 155A-155CE, 155A-155CF, 155A-155CG, 155A-155CH, 155A-155CI, 155A-155CJ, 155A-155CK, 155A-155CL, 155A-155CM, 155A-155CN, 155A-155CO, 155A-155CP, 155A-155CQ, 155A-155CR, 155A-155CS, 155A-155CT, 155A-155CU, 155A-155CV, 155A-155CW, 155A-155CX, 155A-155CY, 155A-155CZ, 155A-155DA, 155A-155DB, 155A-155DC, 155A-155DD, 155A-155DE, 155A-155DF, 155A-155DG, 155A-155DH, 155A-155DI, 155A-155DJ, 155A-155DK, 155A-155DL, 155A-155DM, 155A-155DN, 155A-155DO, 155A-155DP, 155A-155DQ, 155A-155DR, 155A-155DS, 155A-155DT, 155A-155DU, 155A-155DV, 155A-155DW, 155A-155DX, 155A-155DY, 155A-155DZ, 155A-155EA, 155A-155EB, 155A-155EC, 155A-155ED, 155A-155EE, 155A-155EF, 155A-155EG, 155A-155EH, 155A-1

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 405, 405-1, 407 and 407.1} (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1404, 1404.1, 1404, 1405, 1405.1, 1407, and 1407.1).  
 b) The agency shall not knowingly employ or retain any individual after January 1, 1997, in a position with duties involving direct care for patients if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (3)-(6) and (10) of this Section. (Section 25)
- c) For the purpose of this Section:
- 1) "applicant" means an individual seeking employment with an agency who has received a bona fide conditional offer of employment.
  - 2) "conditional offer of employment" means a bona fide offer of employment by an agency to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.
  - 3) "direct care" means the provision of nursing or personal care. 4) "personal care" means assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her own affairs. 5) "record" means a record maintained for that individual, whether or not a conviction has been obtained for that individual. (Section 15 of the Health Care Worker Background Check Act)
  - 4) "initiate" means the obtaining of the authorization for a record check from a student, applicant, or employer. (Section 15 of the Health Care Worker Background Check Act)
  - 6) Beginning January 1, 1996, when the agency makes a conditional offer of employment to an applicant who is not exempt under subsection (p) of this Section, for a position with duties that involve direct care for patients, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.
  - 6) The agency shall transmit all necessary information and fees to the Illinois State Police to obtain a record check. (Section 15 of the Health Care Worker Background Check Act)
  - 6) No later than January 1, 1997, an agency must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check, and who are not exempt because of a subsection--(a)--of--this

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- Section with--duties that involve direct care for patients (Section 30(d) of the Health Care Worker Background Check Act)
- f) The agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (6) or--(e) of this Section.
- g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-finger print UCIA criminal history record check search is made:
- 1) That the agency shall request or have requested on its behalf a non-finger print-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
  - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
  - 3) That the applicant, if hired conditionally, may be terminated if the non-finger print-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant's criminal history record does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (l) of this Section or--the employee--receives--a waiver pursuant to subsections (3)-(6) and--(10) of this Section.
  - 4) That the applicant, if not hired conditionally, shall not be hired if the non-finger print-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (l) of this Section or--the employee--receives--a waiver pursuant to subsections (3)-(6) and--(10) of this Section.
  - 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (l) of this Section or--the employee--receives--a waiver pursuant to subsections (3)-(6) and--(10) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
  - h) An agency may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)



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- 1) An applicant or employee whose non-fingerprint-based UCIA criminal history check indicates a conviction for committing an offense listed in subsections (a)(1)-(13) of this Section may request that the agency or its designee or the Department to commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- 11) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- 12) An applicant, employee or employer may request a waiver to subsection (a) of this Section by submitting the following information to the Department after the receipt of the criminal records report:
- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
  - 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 13) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (1)(1) and (2) above.
- 14) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
  - 2) The circumstances surrounding the crime;
  - 3) The length of time since the conviction;
  - 4) The applicant's or employee's criminal history since the conviction;
  - 5) The applicant's or employee's work history;
  - 6) The applicant's or employee's current employment references;
  - 7) The applicant's or employee's character references;
  - 8) Nurse Aide Registry records; and
  - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of patients. (Section 40(b) of the Health Care Worker Background Check Act)
- 15) An individual may not be employed in a direct care position during the

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- pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)
- 16) An agency is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f)(4) of the Health Care Worker Background Check Act)
- 17) This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or
  - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
  - 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for patients.
- 18) Section 20 of the Health Care Worker Background Check Act shall be amended to read:
- 19) The agency must send a copy of the results of the UCIA criminal history record check to the Registry. (Section 30(b) of the Health Care Worker Background Check Act)
- 20) The agency shall include the individual's Social Security number on the criminal history record check results.
- 21) The agency shall retain on file for a period of 5 years records of criminal records requests for all employees--other--than--nurse--aides who are--on--the--Department's--Nurse--Aide--Registry. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)
- 22) The agency shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS  
Heading of the Part: Illinois Veterans' Homes Code

1) Code Citation: 77 Ill. Adm. Code 340

2) Section Numbers: Proposed Action:

340.1376 Amendments

340.1377 Amendments

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved: The rules in

Part 340 regulate the licensure of government owned but privately operated

veterans' facilities under the Nursing Home Care Act (Act). The rules are

being amended in response to P.A. 89-674 (S.B. 1344, effective August 14,

1989), which amended the Act and the Health Care Worker Background Check

Act.

Section 340.1376 is being amended to include language from the Act

requiring nurse aides on the Nurse Aide Registry to notify the Department

within 30 days after any change of address. The Department is also

requiring that the Registry be informed of a nurse aide's name change.

Section 340.1377 is being amended to clarify the statutory references in

the list of disqualifying crimes. The criminal background checks issued

by the Illinois Department of State Police may have numbers corresponding

to numbering systems in previous editions of the statutes, depending on

when the conviction occurred. Citations have been added to assist

employers in reading the background checks. The citations for theft

(including retail theft), financial exploitation of an elderly or disabled

person, robbery, and burglary have been separated to clarify that they are

disqualifying crimes. The definition of indirect care is amended to include

subsections (a) through (e). Subsection (e) is amended to include the new

subsection (e) requires the facility to transmit all necessary information

and fees to the State Police within 10 working days after receipt of an

authorization to conduct a criminal background check, in accordance with

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this effect.

The Department anticipates adoption of this rulemaking approximately six

to nine months after publication of the notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create

or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this

Rulemaking: Interested persons may present their comments on the proposed

changes by writing within 45 days after this issue of the *Illinois*

*Register* to:

Ms. Gail M. DeVito

Division of Governmental Affairs

Illinois Department of Public Health

535 West Jefferson, Fifth Floor

Springfield, Illinois 62761

217/782-6187

within 45 days after this issue of the *Illinois Register*.

These rules may have an impact on small businesses. In accordance with

Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any

small business may present their comments in writing to Gail M. DeVito at

the above address.

Any small business (as defined in Section 1-75 of the Illinois

Administrative Procedure Act) commenting on these rules shall indicate

their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses: Small Municipalities and Not-for-Profit

Corporations Affected: Privately operated, government owned veterans' homes

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and

result and waivers for 5 years.

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C) Types of Professional Skills Necessary for Compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 340  
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section	Definitions
340.1000	Incorporated and Referenced Materials
340.1010	General Requirements
340.1110	Federal Veterans' Regulations
340.1115	Application for License
340.1120	Criteria for Adverse Licensure Actions
340.1130	Denial of Initial License
340.1140	Revocation or Denial of Renewal of License
340.1150	Inspections, Surveys, Evaluations, and Consultations
340.1160	Presentation of Findings by the Department
340.1170	Ownership Disclosure
340.1190	Monitor and Receivership
340.1200	Determination of a Violation
340.1210	Plans of Correction and Reports of Correction
340.1220	Calculation of Penalties
340.1245	Conditions for Assessment of Penalties
340.1250	Reduction or Waiver of Penalties
340.1260	Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section	Facility Policies
340.1300	Admission and Discharge Policies
340.1310	Disaster Preparedness
340.1320	Serious Incidents and Accidents
340.1330	Infection Control
340.1335	Facility Record Requirements
340.1340	Personnel Policies
340.1350	Initial Health Evaluation for Employees
340.1360	Administrator
340.1370	Personnel Requirements
340.1375	Registry of Certified Nurse Aides
340.1376	Health Care Worker Background Check
340.1377	

SUBPART C: RESIDENT RIGHTS

## DEPARTMENT OF PUBLIC HEALTH

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Section  
340.1400 Implementation of Resident Rights and Facility Responsibilities  
340.1410 General  
340.1420 Contract Between Resident and Facility  
340.1430 Residents' Advisory Council  
340.1440 Abuse and Neglect  
340.1450 Communication and Visitation  
340.1460 Resident's Funds  
340.1470 Transfer or Discharge  
340.1480 Complaint Procedures  
340.1490 Private Right of Action

## SUBPART D: HEALTH SERVICES

Section  
340.1500 Medical Care Policies  
340.1505 Medical Care and Restorative Services  
340.1510 Communicable Disease Policies  
340.1520 Tuberculin Skin Test Procedures  
340.1530 Physician Services  
340.1535 Dental Programs  
340.1540 Life-Sustaining Treatments  
340.1550 Obstetrical and Gynecological Care  
340.1560 Nursing Personnel  
340.1570 Personal Care  
340.1580 Restraints  
340.1590 Nonemergency Use of Physical Restraints  
340.1600 Emergency Use of Physical Restraints  
340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs  
340.1620 Medication Administration  
340.1630 Self-Administration of Medication

## SUBPART E: MEDICATION ADMINISTRATION SERVICES

Section  
340.1650 Medication Policies and Procedures  
340.1655 Conformance with Physician's Orders  
340.1660 Administration of Medication  
340.1665 Control of Medication  
340.1670 Labeling and Storage of Medication

## SUBPART F: RESIDENT LIVING SERVICES

Section  
340.1700 Recreational and Activity Programs  
340.1710 Social Services  
340.1720 Work Programs

## DEPARTMENT OF PUBLIC HEALTH

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## SUBPART G: RESIDENT RECORDS

Section  
340.1800 Resident Record Requirements  
340.1810 Content of Medical Record  
340.1820 Records Pertaining to Resident's Property  
340.1830 Retention, Transfer, and Inspection of Records  
340.1840 Confidentiality of Resident's Records

## SUBPART H: FOOD SERVICE

Section  
340.1900 Food Service Staff  
340.1910 Diet Orders  
340.1920 Adequacy of Diet and Meal Pattern  
340.1930 Therapeutic Diets  
340.1940 Menu Planning  
340.1950 Food Preparation and Service  
340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,  
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section  
340.2000 Maintenance  
340.2010 Water Supply, Sewage Disposal and Plumbing  
340.2020 Housekeeping  
340.2030 Laundry Services  
340.2040 Furnishings  
340.2050 Equipment and Supplies  
TABLE A Disaster Preparedness  
TABLE B Temperature Guidelines for the Use of Various Drugs  
Parameters--Relative Humidity and

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendments at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: POLICIES AND FACILITY RECORDS

## Section 340.1376 Registry of Certified Nurse Aides

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- a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 340.1377 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 3-206.01 and 3-206.02 of the Act.
- b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 340.1377 of this Part and submits documentation supporting one of the following equivalencies:
- 1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no later amendments or editions included) have been met and that there are not documented findings of abuse, neglect, or misappropriation of property.
  - 2) Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department-established nursing assistant competency test.
  - 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395) and at least 40 hours of supervised clinical experience, as evidenced by a diploma, certification, or other written verification from the Department of Public Health.
- c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 340.1377 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Murder, homicide, manslaughter or concealment of a homicidal act.
  - 2) Sexual abuse, sexual assault, sexual harassment, sexual offense, or sexual offense of a minor.
  - 3) Of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat.

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- 1991, ch. 38, pars. 9-1.1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 3, 236, 358, 360, 361, 362, 363, 364, 365, 370, 373, 373a, 417, and 474(1)).
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, Sections 381-386(1)).
- 3) Unlawful retention of a firearm (Sections 10-3, 10-3.1, 10-3.2, 10-3.3, 10-3.4, 10-3.5, 10-3.6, 10-3.7, 10-3.8, 10-3.9, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, 10-3.2, 10-3.3, 10-3.4, 10-3.5, 10-3.6, 10-3.7, 10-3.8, 10-3.9, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, Sections 252, 252.1, and 252.4(1)).
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 55, 56, and 58a-60b(1)).
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-15 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-15] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-14.1, 12-15, and 12-15); Ill. Rev. Stat. 1985, ch. 38, Sections 11-1, 11-4, 11-4.1, 11-4.2, 11-4.3, 11-4.4, 11-4.5, 11-4.6, 11-4.7, 11-4.8, 11-4.9, 11-4.10, 11-4.11, 11-4.12, 11-4.13, 11-4.14, 11-4.15, 11-4.16, 11-4.17, 11-4.18, 11-4.19, 11-4.20, 11-4.21, 11-4.22, 11-4.23, 11-4.24, 11-4.25, 11-4.26, 11-4.27, 11-4.28, 11-4.29, 11-4.30, 11-4.31, 11-4.32, 11-4.33, 11-4.34, 11-4.35, 11-4.36, 11-4.37, 11-4.38, 11-4.39, 11-4.40, 11-4.41, 11-4.42, 11-4.43, 11-4.44, 11-4.45, 11-4.46, 11-4.47, 11-4.48, 11-4.49, 11-4.50, 11-4.51, 11-4.52, 11-4.53, 11-4.54, 11-4.55, 11-4.56, 11-4.57, 11-4.58, 11-4.59, 11-4.60, 11-4.61, 11-4.62, 11-4.63, 11-4.64, 11-4.65, 11-4.66, 11-4.67, 11-4.68, 11-4.69, 11-4.70, 11-4.71, 11-4.72, 11-4.73, 11-4.74, 11-4.75, 11-4.76, 11-4.77, 11-4.78, 11-4.79, 11-4.80, 11-4.81, 11-4.82, 11-4.83, 11-4.84, 11-4.85, 11-4.86, 11-4.87, 11-4.88, 11-4.89, 11-4.90, 11-4.91, 11-4.92, 11-4.93, 11-4.94, 11-4.95, 11-4.96, 11-4.97, 11-4.98, 11-4.99, 11-5, 11-5.1, 11-5.2, 11-5.3, 11-5.4, 11-5.5, 11-5.6, 11-5.7, 11-5.8, 11-5.9, 11-5.10, 11-5.11, 11-5.12, 11-5.13, 11-5.14, 11-5.15, 11-5.16, 11-5.17, 11-5.18, 11-5.19, 11-5.20, 11-5.21, 11-5.22, 11-5.23, 11-5.24, 11-5.25, 11-5.26, 11-5.27, 11-5.28, 11-5.29, 11-5.30, 11-5.31, 11-5.32, 11-5.33, 11-5.34, 11-5.35, 11-5.36, 11-5.37, 11-5.38, 11-5.39, 11-5.40, 11-5.41, 11-5.42, 11-5.43, 11-5.44, 11-5.45, 11-5.46, 11-5.47, 11-5.48, 11-5.49, 11-5.50, 11-5.51, 11-5.52, 11-5.53, 11-5.54, 11-5.55, 11-5.56, 11-5.57, 11-5.58, 11-5.59, 11-5.60, 11-5.61, 11-5.62, 11-5.63, 11-5.64, 11-5.65, 11-5.66, 11-5.67, 11-5.68, 11-5.69, 11-5.70, 11-5.71, 11-5.72, 11-5.73, 11-5.74, 11-5.75, 11-5.76, 11-5.77, 11-5.78, 11-5.79, 11-5.80, 11-5.81, 11-5.82, 11-5.83, 11-5.84, 11-5.85, 11-5.86, 11-5.87, 11-5.88, 11-5.89, 11-5.90, 11-5.91, 11-5.92, 11-5.93, 11-5.94, 11-5.95, 11-5.96, 11-5.97, 11-5.98, 11-5.99, 11-6, 11-6.1, 11-6.2, 11-6.3, 11-6.4, 11-6.5, 11-6.6, 11-6.7, 11-6.8, 11-6.9, 11-6.10, 11-6.11, 11-6.12, 11-6.13, 11-6.14, 11-6.15, 11-6.16, 11-6.17, 11-6.18, 11-6.19, 11-6.20, 11-6.21, 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- 10) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
  - 11) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3); Ill. Rev. Stat. 1961, ch. 38, Sections 84-86, 88, and 501);
  - 12) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
  - 13) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1); Ill. Rev. Stat. 1961, ch. 38, Sections 48-53 and 236-238));
  - 14) Unlawful use of weapons or aggravated discharge of a firearm (Sections 24-1 and 24-1.1 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.1); Ill. Rev. Stat. 1961, ch. 38, Sections 152, 152a, 155, 155a-158b, 414a-416, 414b, and 414c);
  - 15) Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1 and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, and 709)); or
  - 16) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 401, 401.1, 404, 405, 405.1, 407, and 407.1)).
- b) The facility shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) through (13) of this Section, or if the applicant or employer obtains a waiver pursuant to subsection (c)(1) and (c)(2) of this Section. (Section 25 of the Health Care Worker Background Check Act for the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment;
  - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section;
  - 3) "Direct care" means the provision of nursing or personal care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general well-being of an

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- individual who is incapable of managing his or her person whether or not the individual has been adjudicated to be a disabled individual.
- (Section 15 of the Health Care Worker Background Check Act for the purpose of this Section:
- 1) "Facility" means the obtaining of the authorization for a record check from a student, assistant, or employee. (Section 15 of the Health Care Worker Background Check Act)
  - 2) Beginning January 1, 1996 when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (d) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA Criminal History Record Check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)
  - 3) No later than January 1, 1997 a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996 who have not already had a UCIA criminal history record check with duties that involve direct care for residents. (Section 30(d) of the Health Care Worker Background Check Act)
  - 4) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
  - 5) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.
  - 6) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record search check is made:
    - 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;
    - 2) That the applicant or employee has a right to obtain a copy of the criminal records or report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section;
    - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant is applicant or employee does not have a disqualifying criminal history record based on a



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- fingerprint-based records check pursuant to subsection (1) of this Section or--the-employee-receives-a-waiver-pursuant-to subsections-(f)-and-(g)-of-this-Section.*
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section or--the-employee-receives-a-waiver-pursuant-to subsection (1) of this Section or--the-employee-receives-a-waiver-pursuant-to subsections-(f)-and-(g)-of-this-Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or--the-employee receives-a-waiver-pursuant-to subsections-(f)-and-(g)-of-this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)
- h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- i) An applicant who has a criminal history record check indicating that the applicant has a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request that the facility or its designee to commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- 1) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in subsections (a)(1)-(13) of this Section may request that the facility or its designee to commence a fingerprint-based UCIA criminal records check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(g) of the Health Care Worker Background Check Act)
- k) An applicant who has a criminal history record check indicating that the applicant has a conviction for committing or attempting to commit one of the offenses listed in subsections (a)(1)-(13) of this Section may request a waiver to be employed by the facility by submitting the following to the Department of State Police by submitting the following to the Department within five working days after the receipt of the criminal records report:
- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police);

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- and .
- 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 1) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the fees required by subsections (a)(1)-(13) of this Section or--the-employee-receives-a-waiver-pursuant to subsection (1) of this Section or--the-employee-receives-a-waiver-pursuant to subsections-(f)-and-(g)-of-this Section. (Section 40(a)(3) of the Health Care Worker Background Check Act)
- m) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
  - 2) The circumstances surrounding the crime;
  - 3) The length of time since the conviction;
  - 4) The applicant's or employee's criminal history since the conviction;
  - 5) The applicant's or employee's work history;
  - 6) The applicant's or employee's current employment references;
  - 7) The applicant's or employee's character references;
  - 8) Nurse Aide Registry records; and
  - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

n) An individual may not be employed in direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f)(4) of the Health Care Worker Background Check Act)

p) This Section shall not apply to:

    - 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or
    - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. (Section 20 of the Health-Care-Worker-Background-Check-Act).

q) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those facilities who are not already registered with the Illinois State Health Care Worker Background Check Act. The facility shall include the individual's Social Security number on the criminal history record check results.

r) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees--other-than-nurse-aide who are on the Department's Nurse Aide Registry. The facility shall retain the results of the UCIA criminal history records check and



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waiver, if appropriate, for the duration of the individual's employment. The files file shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

§17 The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code

2) Code Citation: 77 Ill. Adm. Code 350

3) Section Numbers: 350.681  
Proposed Action:  
Amendments  
350.683

4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]

5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 350 regulate the licensure of intermediate care facilities for the developmentally disabled under the Nursing Home Care Act (Act). The rules are being amended in response to P.A. 89-674 (S.B. 1554, effective August 14, 1996), which amended the Act and the Health Care Worker Background Check Act.

Section 350.681 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include language from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, in accordance with P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to working days. A new subsection (l) states that the Department may accept the results of a fingerprint-based UCIA criminal records check if a person requesting a waiver has already had the fingerprint check done. Subsection (n) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

Section 350.683 is being amended to include language from the Act requiring nurse aides on the Nurse Aide Registry to notify the Department within 30 days of any change of address. The Department is also requiring that the Registry be informed of a nurse aide's name change.

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The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Renewal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
350-625	Amendments	21 Ill. Reg. 1798

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, IL 62761  
(217) 782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Intermediate Care Facilities for the Developmentally Disabled

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- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.

- C) Types of Professional Skills Necessary for Compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

## PART 350

## INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensee Actions
350.170	Denial of Initial License
350.175	Denial of Renewal License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plan of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties
350.290	Quarterly List of Violators
350.300	Alcoholism Treatment Programs in Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

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## SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

## SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.630	Admission and Discharge Policies
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Health Care Worker Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents

## SUBPART D: PERSONNEL

Section	
350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies

## SUBPART E: RESIDENT LIVING SERVICES

Section	
350.1010	Service Programs
350.1020	Psychological Services
350.1030	Speech Services
350.1040	Speech Pathology and Audiology Services
350.1050	Recreational and Activities Services
350.1060	Training and Rehabilitation Services
350.1070	Training and Rehabilitation Staff
350.1080	Restraints
350.1082	Nonemergency Use of Physical Restraints
350.1084	Emergency Use of Physical Restraints
350.1086	Unnecessary, Psychotropic and Antipsychotic Drugs

## SUBPART F: HEALTH SERVICES

Section	
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Health Services  
 Physician Services  
 350.1210  
 Tuberculin Skin Test Procedures  
 350.1225  
 Nursing Services  
 350.1230  
 Kidney Treatments  
 350.1235  
 Dental Services  
 350.1240  
 Physical and Occupational Therapy Services  
 350.1250

## SUBPART G: MEDICATIONS

Section  
 350.1410 Medication Policies and Procedures  
 350.1420 Conformance with Physician's Orders  
 350.1430 Administration of Medication  
 350.1440 Labeling and Storage  
 350.1450 Control of Narcotics and Legend Drugs

## SUBPART H: RESIDENT AND FACILITY RECORDS

Section  
 350.1620 Resident Record Requirements  
 350.1630 Confidentiality of Records  
 350.1630 Confidentiality of Resident's Records  
 350.1640 Records Pertaining to Residents' Property  
 350.1650 Retention and Transfer of Resident Records  
 350.1660 Other Resident Record Requirements  
 350.1670 Staff Responsibility for Medical Records  
 350.1680 Retention of Facility Records  
 350.1690 Other Facility Record Requirements

## SUBPART I: FOOD SERVICE

Section  
 350.1810 Director of Food Services  
 350.1820 Dietary Staff in Addition to Director of Food Services  
 350.1830 Hygiene of Dietary Staff  
 350.1840 Diet Orders  
 350.1850 Adequacy of Diet and Meal Pattern  
 350.1860 Therapeutic Diets  
 350.1870 Scheduling Meals  
 350.1880 Menu Planning  
 350.1890 Food Preparation and Service  
 350.1900 Food Handling Sanitation  
 350.1910 Kitchen Equipment, Utensils, and Supplies

## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

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Maintenance  
 350.2010  
 Housekeeping  
 350.2020  
 Laundry Services  
 350.2030

## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section  
 350.2210 Furnishings  
 350.2220 Equipment and Supplies

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section  
 350.2410 Codes  
 350.2420 Water Supply  
 350.2430 Sewage Disposal  
 350.2440 Plumbing

## SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section  
 350.2610 Applicability of These Standards  
 350.2620 Codes and Standards  
 350.2630 Preparation of Drawings and Specifications  
 350.2640 Site

350.2650 Administration and Public Areas  
 350.2660 Nursing Unit  
 350.2670 Dining, Living, Activities Rooms  
 350.2680 Therapy and Personal Care  
 350.2690 Service Departments  
 350.2700 General Building Requirements  
 350.2710 Structural  
 350.2720 Mechanical Systems  
 350.2730 Plumbing Systems  
 350.2740 Electrical Systems

## SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section  
 350.2910 Applicability  
 350.2920 Codes and Standards  
 350.2930 Preparation of Drawings and Specifications  
 350.2940 Site  
 350.2950 Administration and Public Areas  
 350.2960 Nursing Unit  
 350.2970 Living, Dining, Activities Rooms

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350.2980 Treatment and Personal Care  
 350.2990 Services and Programs  
 350.3000 General Building Requirements  
 350.3010 Structural  
 350.3020 Mechanical Systems  
 350.3030 Plumbing Systems  
 350.3040 Electrical Requirements

## SUBPART O: RESIDENT'S RIGHTS

Section  
 350.3210 Medical and Personal Care Program  
 350.3220 Restraints  
 350.3230 Abuse and Neglect  
 350.3240 Communication and Visitation  
 350.3250 Resident's Funds  
 350.3260 Resident Advisory Council  
 350.3270 Complaints with Facility  
 350.3280 Private Right of Action  
 350.3290 Transfer or Discharge  
 350.3300 Complaint Procedures  
 350.3310 Confidentiality  
 350.3320 Facility Implementation  
 350.3330

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES  
FOR THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

Section  
 350.3710 Applicability of Other Provisions of this Part  
 350.3720 Administration  
 350.3730 Admission and Discharge Policies  
 350.3740 Personnel  
 350.3750 Consultation Services and Nursing Services  
 350.3760 Medication Policies  
 350.3770 Food Services  
 350.3780 Codes and Standards  
 350.3790 Administration and Public Areas  
 350.3800 Bedrooms  
 350.3810 Nurses Station  
 350.3820 Bath and Toilet Rooms  
 350.3830 Utility Rooms  
 350.3840 Living, Dining, Activity Rooms  
 350.3850 Therapy and Personal Care  
 350.3860 Kitchen  
 350.3870 Laundry Room  
 350.3880 General Building Requirements  
 350.3890 Corridors

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350.3900 Special Care Room  
 350.3910 Exit Facilities and Subdivision of Floor Areas  
 350.3920 Stairways, Vertical Openings and Doorways  
 350.3930 Hazardous Areas and Combustible Storage  
 350.3940 Mechanical Systems  
 350.3950 Heating, Cooling, and Ventilating Systems  
 350.3960 Plumbing Systems  
 350.3970 Electrical Systems  
 350.3980 Fire Alarm and Detection System  
 350.3990 Emergency Electrical System  
 350.4000 Fire Protection  
 350.4010 Construction Types  
 350.4020 Equivalencies  
 350.4030 New Construction Requirements

## SUBPART Q: DAY CARE PROGRAMS

Section  
 350.4210 Day Care in Long-Term Care Facilities

APPENDIX A Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)  
 APPENDIX B Federal Requirements Regarding Residents' Rights  
 APPENDIX C Seismic Zone Map  
 APPENDIX D Forms for Day Care in Long-Term Care Facilities  
 APPENDIX E Guidelines for the Use of Various Drugs  
 TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled  
 TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled  
 TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled  
 TABLE D Good Practices, Sanitation Rules and Regulations, Min. Adm. Code 700.1983, and New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less  
 TABLE E Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less  
 TABLE F Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended

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at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 10 Ill. Reg. 14795, effective October 14, 1985; amended at 10 Ill. Reg. 15300, effective October 14, 1985; amended at 10 Ill. Reg. 15799, effective November 12, 1985; amended at 10 Ill. Reg. 16838, effective November 22, 1985; amended at 10 Ill. Reg. 16839, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16159, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19551, effective November 7, 1993; amended at 18 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: POLICIES

## Section 350.681 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if

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that person has been convicted of committing or attempting to commit a crime of the following offenses (Section 25 of the Health Care Worker Background Check Act [725 ILCS 46/25]):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3)); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 3.236, 360, 361, 362, 363, 364, 364a, 365, 370, 372, 373a, 417, and 4741);
- 2) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] and 10-777; Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-777; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, Sections 381-386));
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-6 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-6] and 10-447; Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-447; Ill. Rev. Stat. 1961, ch. 38, Sections 252.1, and 252.41);
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.777; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 55, 56, and 56a-60b));
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-13, 12-14, 12-15, and 12-1677; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-11; Ill. Rev. Stat. 1961, ch. 38, Sections 109.147, 109.147a, 109.147b, 109.147c, 109.147d, 109.147e, 109.147f, 109.147g, 109.147h, 109.147i, 109.147j, 109.147k, 109.147l, 109.147m, 109.147n, 109.147o, 109.147p, 109.147q, 109.147r, 109.147s, 109.147t, 109.147u, 109.147v, 109.147w, 109.147x, 109.147y, 109.147z, 109.147aa, 109.147ab, 109.147ac, 109.147ad, 109.147ae, 109.147af, 109.147ag, 109.147ah, 109.147ai, 109.147aj, 109.147ak, 109.147al, 109.147am, 109.147an, 109.147ao, 109.147ap, 109.147aq, 109.147ar, 109.147as, 109.147at, 109.147au, 109.147av, 109.147aw, 109.147ax, 109.147ay, 109.147az, 109.147ba, 109.147bb, 109.147bc, 109.147bd, 109.147be, 109.147bf, 109.147bg, 109.147bh, 109.147bi, 109.147bj, 109.147bk, 109.147bl, 109.147bm, 109.147bn, 109.147bo, 109.147bp, 109.147bq, 109.147br, 109.147bs, 109.147bt, 109.147bu, 109.147bv, 109.147bw, 109.147bx, 109.147by, 109.147bz, 109.147ca, 109.147cb, 109.147cc, 109.147cd, 109.147ce, 109.147cf, 109.147cg, 109.147ch, 109.147ci, 109.147cj, 109.147ck, 109.147cl, 109.147cm, 109.147cn, 109.147co, 109.147cp, 109.147cq, 109.147cr, 109.147cs, 109.147ct, 109.147cu, 109.147cv, 109.147cw, 109.147cx, 109.147cy, 109.147cz, 109.147da, 109.147db, 109.147dc, 109.147dd, 109.147de, 109.147df, 109.147dg, 109.147dh, 109.147di, 109.147dj, 109.147dk, 109.147dl, 109.147dm, 109.147dn, 109.147do, 109.147dp, 109.147dq, 109.147dr, 109.147ds, 109.147dt, 109.147du, 109.147dv, 109.147dw, 109.147dx, 109.147dy, 109.147dz, 109.147ea, 109.147eb, 109.147ec, 109.147ed, 109.147ee, 109.147ef, 109.147eg, 109.147eh, 109.147ei, 109.147ej, 109.147ek, 109.147el, 109.147em, 109.147en, 109.147eo, 109.147ep, 109.147eq, 109.147er, 109.147es, 109.147et, 109.147eu, 109.147ev, 109.147ew, 109.147ex, 109.147ey, 109.147ez, 109.147fa, 109.147fb, 109.147fc, 109.147fd, 109.147fe, 109.147ff, 109.147fg, 109.147fh, 109.147fi, 109.147fj, 109.147fk, 109.147fl, 109.147fm, 109.147fn, 109.147fo, 109.147fp, 109.147fq, 109.147fr, 109.147fs, 109.147ft, 109.147fu, 109.147fv, 109.147fw, 109.147fx, 109.147fy, 109.147fz, 109.147ga, 109.147gb, 109.147gc, 109.147gd, 109.147ge, 109.147gf, 109.147gg, 109.147gh, 109.147gi, 109.147gj, 109.147gk, 109.147gl, 109.147gm, 109.147gn, 109.147go, 109.147gp, 109.147gq, 109.147gr, 109.147gs, 109.147gt, 109.147gu, 109.147gv, 109.147gw, 109.147gx, 109.147gy, 109.147gz, 109.147ha, 109.147hb, 109.147hc, 109.147hd, 109.147he, 109.147hf, 109.147hg, 109.147hh, 109.147hi, 109.147hj, 109.147hk, 109.147hl, 109.147hm, 109.147hn, 109.147ho, 109.147hp, 109.147hq, 109.147hr, 109.147hs, 109.147ht, 109.147hu, 109.147hv, 109.147hw, 109.147hx, 109.147hy, 109.147hz, 109.147ia, 109.147ib, 109.147ic, 109.147id, 109.147ie, 109.147if, 109.147ig, 109.147ih, 109.147ii, 109.147ij, 109.147ik, 109.147il, 109.147im, 109.147in, 109.147io, 109.147ip, 109.147iq, 109.147ir, 109.147is, 109.147it, 109.147iu, 109.147iv, 109.147iw, 109.147ix, 109.147iy, 109.147iz, 109.147ja, 109.147jb, 109.147jc, 109.147jd, 109.147je, 109.147jf, 109.147jg, 109.147jh, 109.147ji, 109.147jj, 109.147jk, 109.147jl, 109.147jm, 109.147jn, 109.147jo, 109.147jp, 109.147jq, 109.147jr, 109.147js, 109.147jt, 109.147ju, 109.147jv, 109.147jw, 109.147jx, 109.147jy, 109.147jz, 109.147ka, 109.147kb, 109.147kc, 109.147kd, 109.147ke, 109.147kf, 109.147kg, 109.147kh, 109.147ki, 109.147kj, 109.147kl, 109.147km, 109.147kn, 109.147ko, 109.147kp, 109.147kq, 109.147kr, 109.147ks, 109.147kt, 109.147ku, 109.147kv, 109.147kw, 109.147kx, 109.147ky, 109.147kz, 109.147la, 109.147lb, 109.147lc, 109.147ld, 109.147le, 109.147lf, 109.147lg, 109.147lh, 109.147li, 109.147lj, 109.147lk, 109.147ll, 109.147lm, 109.147ln, 109.147lo, 109.147lp, 109.147lq, 109.147lr, 109.147ls, 109.147lt, 109.147lu, 109.147lv, 109.147lw, 109.147lx, 109.147ly, 109.147lz, 109.147ma, 109.147mb, 109.147mc, 109.147md, 109.147me, 109.147mf, 109.147mg, 109.147mh, 109.147mi, 109.147mj, 109.147mk, 109.147ml, 109.147mn, 109.147mo, 109.147mp, 109.147mq, 109.147mr, 109.147ms, 109.147mt, 109.147mu, 109.147mv, 109.147mw, 109.147mx, 109.147my, 109.147mz, 109.147na, 109.147nb, 109.147nc, 109.147nd, 109.147ne, 109.147nf, 109.147ng, 109.147nh, 109.147ni, 109.147nj, 109.147nk, 109.147nl, 109.147nm, 109.147nn, 109.147no, 109.147np, 109.147nq, 109.147nr, 109.147ns, 109.147nt, 109.147nu, 109.147nv, 109.147nw, 109.147nx, 109.147ny, 109.147nz, 109.147oa, 109.147ob, 109.147oc, 109.147od, 109.147oe, 109.147of, 109.147og, 109.147oh, 109.147oi, 109.147oj, 109.147ok, 109.147ol, 109.147om, 109.147on, 109.147oo, 109.147op, 109.147oq, 109.147or, 109.147os, 109.147ot, 109.147ou, 109.147ov, 109.147ow, 109.147ox, 109.147oy, 109.147oz, 109.147pa, 109.147pb, 109.147pc, 109.147pd, 109.147pe, 109.147pf, 109.147pg, 109.147ph, 109.147pi, 109.147pj, 109.147pk, 109.147pl, 109.147pm, 109.147pn, 109.147po, 109.147pp, 109.147pq, 109.147pr, 109.147ps, 109.147pt, 109.147pu, 109.147pv, 109.147pw, 109.147px, 109.147py, 109.147pz, 109.147qa, 109.147qb, 109.147qc, 109.147qd, 109.147qe, 109.147qf, 109.147qg, 109.147qh, 109.147qi, 109.147qj, 109.147qk, 109.147ql, 109.147qm, 109.147qn, 109.147qo, 109.147qp, 109.147qq, 109.147qr, 109.147qs, 109.147qt, 109.147qu, 109.147qv, 109.147qw, 109.147qx, 109.147qy, 109.147qz, 109.147ra, 109.147rb, 109.147rc, 109.147rd, 109.147re, 109.147rf, 109.147rg, 109.147rh, 109.147ri, 109.147rj, 109.147rk, 109.147rl, 109.147rm, 109.147rn, 109.147ro, 109.147rp, 109.147rq, 109.147rr, 109.147rs, 109.147rt, 109.147ru, 109.147rv, 109.147rw, 109.147rx, 109.147ry, 109.147rz, 109.147sa, 109.147sb, 109.147sc, 109.147sd, 109.147se, 109.147sf, 109.147sg, 109.147sh, 109.147si, 109.147sj, 109.147sk, 109.147sl, 109.147sm, 109.147sn, 109.147so, 109.147sp, 109.147sq, 109.147sr, 109.147ss, 109.147st, 109.147su, 109.147sv, 109.147sw, 109.147sx, 109.147sy, 109.147sz, 109.147ta, 109.147tb, 109.147tc, 109.147td, 109.147te, 109.147tf, 109.147tg, 109.147th, 109.147ti, 109.147tj, 109.147tk, 109.147tl, 109.147tm, 109.147tn, 109.147to, 109.147tp, 109.147tq, 109.147tr, 109.147ts, 109.147tt, 109.147tu, 109.147tv, 109.147tw, 109.147tx, 109.147ty, 109.147tz, 109.147ua, 109.147ub, 109.147uc, 109.147ud, 109.147ue, 109.147uf, 109.147ug, 109.147uh, 109.147ui, 109.147uj, 109.147uk, 109.147ul, 109.147um, 109.147un, 109.147uo, 109.147up, 109.147uq, 109.147ur, 109.147us, 109.147ut, 109.147uu, 109.147uv, 109.147uw, 109.147ux, 109.147uy, 109.147uz, 109.147va, 109.147vb, 109.147vc, 109.147vd, 109.147ve, 109.147vf, 109.147vg, 109.147vh, 109.147vi, 109.147vj, 109.147vk, 109.147vl, 109.147vm, 109.147vn, 109.147vo, 109.147vp, 109.147vq, 109.147vr, 109.147vs, 109.147vt, 109.147vu, 109.147vv, 109.147vw, 109.147vx, 109.147vy, 109.147vz, 109.147wa, 109.147wb, 109.147wc, 109.147wd, 109.147we, 109.147wf, 109.147wg, 109.147wh, 109.147wi, 109.147wj, 109.147wk, 109.147wl, 109.147wm, 109.147wn, 109.147wo, 109.147wp, 109.147wq, 109.147wr, 109.147ws, 109.147wt, 109.147wu, 109.147wv, 109.147ww, 109.147wx, 109.147wy, 109.147wz, 109.147xa, 109.147xb, 109.147xc, 109.147xd, 109.147xe, 109.147xf, 109.147xg, 109.147xh, 109.147xi, 109.147xj, 109.147xk, 109.147xl, 109.147xm, 109.147xn, 109.147xo, 109.147xp, 109.147xq, 109.147xr, 109.147xs, 109.147xt, 109.147xu, 109.147xv, 109.147xw, 109.147xx, 109.147xy, 109.147xz, 109.147ya, 109.147yb, 109.147yc, 109.147yd, 109.147ye, 109.147yf, 109.147yg, 109.147yh, 109.147yi, 109.147yj, 109.147yk, 109.147yl, 109.147ym, 109.147yn, 109.147yo, 109.147yp, 109.147yq, 109.147yr, 109.147ys, 109.147yt, 109.147yu, 109.147yv, 109.147yw, 109.147yx, 109.147yy, 109.147yz, 109.147za, 109.147zb, 109.147zc, 109.147zd, 109.147ze, 109.147zf, 109.147zg, 109.147zh, 109.147zi, 109.147zj, 109.147zk, 109.147zl, 109.147zm, 109.147zn, 109.147zo, 109.147zp, 109.147zq, 109.147zr, 109.147zs, 109.147zt, 109.147zu, 109.147zv, 109.147zw, 109.147zx, 109.147zy, 109.147zz);
- 6) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, Sections 62, 207-218, 240-244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387-388b, 389, 393-400, 404a-404c, 438, 492-496));
- 8) Theft, financial exploitation of an elderly or disabled person





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- with subsection (k) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant applies for employment and does not have a disqualifying criminal record.
- 4) That the applicant, if hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (b) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's applicant record is cleared based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (j) and (k) of this Section.
- 6) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)
- 7) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request that the facility or its designee to commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- 8) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses listed in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after that individual in a direct care facility may request that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the

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- Health Care Worker Background Check Act)
- 9) An applicant, employee or employer may request a waiver to subsection (a) of (b) of this Section by submitting the following to the Department of State Police within five working days after the receipt of the criminal records report:
- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Illinois State Police); and
  - 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- 10) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (a)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
- 11) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age at which the crime was committed;
  - 2) The circumstances surrounding the crime;
  - 3) The length of time since the conviction;
  - 4) The applicant's or employee's criminal history since the conviction;
  - 5) The applicant's or employee's work history;
  - 6) The applicant's or employee's current employment references;
  - 7) The applicant's or employee's character references;
  - 8) Nurse Aide Registry records; and
  - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

12) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

13) A facility is not obligated to employ or offer permanent employment to an applicant or employee who is granted a waiver.

14) This Section shall not apply to:

    - 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or
    - 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or Section 28 of the Health-Care-Worker-Background Check Act
    - 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a

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*respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)*

§147 The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

§148 The facility shall retain on file for a period of 5 years records of all requests for Nurse-Aide-Registry. The facility shall retain the results of the Criminal History Records check and waiver, if appropriate, for the duration of the individual's employment. The file shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

§149 The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 350.683 Registry of Developmental Disabilities Aides

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 350.681 of this Part, and when there are no findings of abuse, neglect or misappropriation of the property in accordance with Sections 3-206.01 and 3-206.02 of the Act.

b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 350.681 of this Part and submits documentation supporting one of the following qualifications:

- 1) Documentation of current registration from another state as a developmental disabilities aide.
- 2) Documentation of successful completion of a developmental disabilities aide training course approved by another state as evidenced by a diploma, certification, or other written verification from the school. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for developmental disability aides in the Department's rules governing long-term care assistant and aide training programs (77 Ill. Adm. Code 395).

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3) Documentation of successful completion of a Mental Health Technician Training Program solicited by the Department of Mental Health and Developmental Disabilities.

§1 An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 10 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Long-Term Care Assistants and Aides Training Programs Code
- 2) Code Citation: 77 Ill. Adm. Code 395
- 3) Section Numbers: 395.170  
Proposed Action: Amendments
- 4) Statutory Authority: Nursing Home Care Act (210 ILCS 45)
- 5) A Complete Description of the Subjects and Issues Involved: The rules in part 395 establish requirements governing training programs for long-term care assistants and aides. The rules are being amended in response to P.A. 89-674 (SB 1544, effective August 14, 1996), which amended the Nursing Home Care Act and the Health Care Worker Background Check Act. Section 395.170 is being amended to include a definition of "initiate" from P.A. 89-674 and a provision requiring an educational entity, other than a secondary school, conducting a nurse aide program to initiate a UCIA criminal history records check prior to entry of an individual into the training program. A secondary school may conduct a background check prior to an individual's entry into the training program. The amendments also require the results of the background check to be attached to the student's competency test application. If the student does not complete a test application or takes the test before receiving the results of the background check, the program shall submit the results to the Department. The training program is also required to provide the student with a copy of the results of the background check.  
  
The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.  
  
The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.
- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this

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Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. Devito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Educational entities offering nurse aide training courses.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Procedures are outlined in the proposed amendments.

C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent regulatory agendas because this rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 395  
LONG-TERM CARE ASSISTANTS AND AIDES TRAINING PROGRAMS CODE

SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

- Section  
395-50 Definitions  
395-100 Program Sponsor  
395-110 Application for Program Approval  
395-120 Review Process and Program Approval  
395-130 Review of Approved Training Program  
395-140 Minimum Hours of Instruction  
395-150 Instructor Requirements  
395-160 Program Operation  
395-170 Successful Completion of the Basic Nursing Assistant Training Program  
395-173 Child Care/Habilitation Aide Training Program  
395-174 Child Care/Habilitation Aide Training Program  
395-175 Program Notification Requirements  
395-180 Denial, Suspension, and Revocation  
395-190 Other Programs Conducted by Facilities (Repealed)  
395-200

SUBPART B: TRAINING PROGRAM CURRICULA REQUIREMENTS

- Section  
395-300 Basic Nursing Assistant Training Program  
395-310 Developmental Disabilities Aide Training Program  
395-320 Basic Child Care/Habilitation Aide Training Program

SUBPART C: PROFICIENCY EXAMINATION

- Section  
395-400 Proficiency Examination

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Adopted at 13 Ill. Reg. 19474, effective December 1, 1989; amended at 17 Ill. Reg. 2984, effective February 22, 1993; emergency amendment at 20 Ill. Reg. 529, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10085, effective July 15, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART A: PROGRAM APPLICATION AND APPROVAL PROCESS

Section 395.170 Program Operation

- a) *An educational entity, other than a secondary school, conducting a Nurse Aide Training Program shall initiate a UCIA criminal history record check in accordance with the requirements of the Criminal History Record Act (125 ILCS 125-1 to 125-16) prior to entry of an individual into a training program. A secondary school may initiate a criminal history record check prior to the entry of an individual into a training program. (Section 3-205(a)-0.5) of the Act)*
- b) *For the purpose of this Section, "initiate" means the obtaining of the authorization for a record check from a student. The educational entity shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15(3) of the Health Care Worker Background Check Act)*
- c) *The results of the criminal history record check shall be attached to the student's competency test application. If the student does not complete a test application or takes the competency test prior to receiving the results of the criminal history record check, the program shall submit the results to the Department. The program shall also provide the student with a copy of the results.*
- d) *The program shall provide counseling to all individuals seeking admission to the program concerning the Health Care Worker Background Check Act first-reading. This counseling must include at a minimum:*
- 1) *notification that a UCIA criminal history record check will be initiated in accordance with subsection (a) above;*
  - 2) *a clear statement that a UCIA Criminal Background Check is required for the individual to work as a nursing assistant, developmental disabilities aide, or basic child care/habilitation aide in Illinois; and*
  - 3) *a listing of those Sections of the Criminal Code of 1961 (720 ILCS 5), the Cannabis Control Act (720 ILCS 550), and the Illinois Controlled Substances Act (720 ILCS 570) for which a conviction would disqualify the individual from finding employment as a nursing assistant.*
- e) *At ten working days prior to the start of the actual training program, an updated master schedule, in accordance with Section 395.110(b)(5) of this Part, shall be submitted to the Department.*
- f) *Any change in program content, objectives, or instructors shall be submitted to the Department at least thirty days prior to program delivery.*
- g) *At the Basic Nursing Assistant Training Program, the program shall initiate each student to seek competency of Department approved manual skills by hands-on return demonstration. The manual skills evaluation shall be conducted by an approved evaluator. Approved evaluators employed by a facility may not evaluate students trained by the*

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facility program. The facility shall assure that an approved evaluator who is not an approved instructor meets the requirements of Section 395.160 of this Part.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Numbers: Proposed Action:  
390.681 Amendments  
390.683
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A. Complete Description of the Subjects and Issues Involved: The rules in Part 390 regulate the licensure of long-term care facilities for persons under age 22 under the Nursing Home Care Act (Act). The rules are being amended in response to P.A. 89-674 (S.B. 1544, effective August 14, 1996), which amended the Act and the Health Care Worker Background Check Act.

Section 390.681 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include persons who are not paid for their services. Subsection (a) of section 390.681 requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, in accordance with P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (1) states that the Department may accept the results of a fingerprint-based UCIA criminal records check if a person requesting a waiver has already had the fingerprint check done. Subsection (n) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

Section 390.683 is being amended to include language from the Act requiring nurse aides on the Nurse Aide Registry to notify the Department within 10 working days of any change of address. The Department is also requiring that the Registry be informed of a nurse aide's name change.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

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The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. Devito

Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

## 12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Long-term care facilities for persons under age 22.
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.
- C) Types of Professional Skills Necessary for Compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was

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not included on either of the 2 most recent agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH  
 CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH  
 SUBCHAPTER C: LONG-TERM CARE FACILITIES

## PART 390

## LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	
390.110	General Requirements
390.120	Application for License
390.130	License
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of a Renewal License
390.160	Issuance of a Reverse License Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
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390.670	Personnel Policies
390.675	Initial Health Evaluation for Employees
390.680	Child Care/Habilitation Aides
390.681	Health Care Worker Background Check
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390.685	Student Interns
390.690	Resident Grievances
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390.1820	Dietary Staff in Addition to Director of Food Services
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390.1860	Food and Therapeutic Diets
390.1870	Food Planning
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- (a)(1)-(13) of this Section.

3) "direct care" means the provision of nursing or personal care of assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. Section 15 of the "Practical Nurses Act" shall not apply to direct care.

4) "Practical Nurse" means the holder of the authorization for a record check from a student, applicant or employee. (Section 15 of the Health Care Worker Background Check Act)

d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (b) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

e) No later than January 1, 1999, a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1996, who have not already had a UCIA criminal history record check. The facility shall transmit all necessary information and fees to the State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

f) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (d) or (e) of this Section.

g) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record search check is made:

- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act;
- 2) That the applicant or employee has the right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that

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the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based record check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsection (k) of this Section.

4) That the applicant if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (k) and (l) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1)-(13) of this Section unless the employee's applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (1) of this Section or the employee receives a waiver pursuant to subsections (k) and (l) of this Section.

h) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

i) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section may request that the facility or its designee to commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

j) A facility having actual knowledge that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after the conviction is known. The facility may request that the individual whose criminal history record may be causing the individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

k) An applicant, employee or employer may request a waiver to subsection (a) or (b) of this Section by submitting the following to the

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Department by--submitting--the--following within 30 five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA Criminal Records Check form (Section 40(a) of the Health Care Worker Background Check Act) which the Department will forward to the Illinois State Police; and

- 2) A certified check, money order or agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.

1) The Department may accept the results of the fingerprint-based UCIA Criminal Records Check instead of the items required by Subsections (a)(1) and (2) above.

m) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health and safety of patients. (Section 40(b) of the Health Care Worker Background Check Act).

n) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

o) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f)(4) of the Health Care Worker Background Check Act)

p) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or

- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State--(Section 40 of the Health-Care-Worker--Background Check Act); or

- 3) A student in a licensed health care field including, but not limited to, student nurse, student medical therapist, student respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

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q) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

r) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees--other-than-nurse-aides who are on the Department's--Nurse-Aide-Registry. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files for shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)

s) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## Section 390.683 Registry of Child Care/Habilitation Aides

a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 390.681 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Sections 206.01 and 320.01 of the Act.

b) An individual shall be placed on the Nurse Aide Registry if he/she has met background check information required in Section 390.681 of this Part and submits documentation supporting one of the following equivalencies:

- 1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.
- 2) Provide documentation of successful completion of a child care/habilitation aide training course approved by another state as evidenced by a diploma or certificate. The documentation must demonstrate that the course is equivalent to, or exceeds, the requirements for child care/habilitation aides in the Department's rules governing long-term care assistant and aide training programs (see 21 Ill. Adm. Code 395).
- 3) Documentation of successful completion of a nursing arts course

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with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certification or other written verification from the school.

- c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Numbers: Proposed Action:  
330.911 Amendments
- 4) Statutory Authority: Nursing Home Care Act (210 ICS 45)
- 5) A Complete Description of the Subjects and Issues Involved: The rules in 330.911 related to licensed nursing home sheltered care facilities under the Nursing Home Care Act (Act). The rules are being amended to conform to P.A. 89-674 (S.B. 1544 effective August 14, 1996), which amended the Act and the Health Care Worker Background Check Act.

Section 330.911 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include language from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information and fees to the State Police within 10 working days after receipt of an individual's criminal background check. The language in the existing P.A. 89-674. Also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (l) states that the Department may accept the results of a fingerprint-based UCIA criminal records check if a person requesting a waiver has already had the fingerprint check done. Subsection (n) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection (p)(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No



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- 7) Does this Rulemaking Contain an Automatic Renewal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statutory Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:
- Ms. Gail M. Devito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, IL 62761  
(217/782-6187)

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any person or business may present their comments in writing to Gail M. Devito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

## 12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Sheltered Care Facilities
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for five years.
- C) Types of Professional Skills Necessary for Compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because this rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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- TITLE 77: PUBLIC HEALTH  
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER c: LONG-TERM CARE FACILITIES

## PART 330

## SHELTERED CARE FACILITIES CODE

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330.110	General Requirements
330.120	Application for License
330.130	License
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.165	Criteria for Adverse License Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to Be Made Available to the Public By the Department
330.230	Information to Be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.240	Ownership Disclosure
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330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties
330.288	Imposition of Penalties
330.290	Quasi-Judicial List of Violations
330.300	Alcoholism Treatment Programs In Long-Term Care Facilities
330.310	Department May Survey Facilities Formerly Licensed
330.320	Waivers
330.330	Definitions
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330.510 Administrator  
  
SUBPART C: POLICIES

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330.710 Resident Care Policies  
330.720 Admission and Discharge Policies  
330.730 Contract Between Resident and Facility  
330.740 Residents' Advisory Council  
330.750 General Policies  
330.760 Personnel Policies  
330.765 Personnel Evaluation for Employees  
330.770 Disaster Preparedness  
330.780 Serious Incidents and Accidents

## SUBPART D: PERSONNEL

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330.910 Personnel  
330.911 Health Care Worker Background Check  
330.913 Nursing and Personal Care Assistants (Repealed)  
330.916 Student Interns (Repealed)  
330.920 Consultation Services  
330.930 Personnel Policies

## SUBPART E: HEALTH SERVICES AND MEDICAL CARE OF RESIDENTS

Section  
330.1110 Medical Care Policies  
330.1120 Personal Care  
330.1125 Life Sustaining Treatments  
330.1130 Communicable Disease Policies  
330.1135 Tuberculin Skin Test Procedures  
330.1140 Behavior Emergencies (Repealed)  
330.1145 Restraints  
330.1150 Emergency Use of Physical Restraints  
330.1155 Unnecessary, Psychotropic, and Antipsychotic Drugs

## SUBPART F: RESTORATIVE SERVICES

Section  
330.1310 Activity Program  
330.1320 Work Programs  
330.1330 Written Policies for Restorative Services

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SUBPART G: MEDICATIONS

Section  
330.1510 Medication Policies  
330.1520 Administration of Medication  
330.1530 Labeling and Storage of Medications

## SUBPART H: RESIDENT AND FACILITY RECORDS

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330.1710 Resident Record Requirements  
330.1720 Content of Medical Records  
330.1730 Records Pertaining to Residents' Property  
330.1740 Retention and Transfer of Resident Records  
330.1750 Other Resident Record Requirements  
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330.1920 Dietary Staff in Addition to Director of Food Services  
330.1930 Hygiene of Dietary Staff  
330.1940 Diet Orders  
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330.1960 Therapeutic Diets  
330.1970 Scheduling of Meals  
330.1980 Menu Planning  
330.1990 Food Preparation and Service  
330.2000 Food Handling Sanitation  
330.2005 Kitchen Equipment, Utensils, and Supplies  
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## SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

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330.2210 Maintenance  
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## SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section  
330.2410 Furnishings  
330.2420 Equipment and Supplies

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330.2610	Codes
330.2620	Water Supply
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330.2810	Applicable Requirements (Repealed)
330.2820	Applicability of These Standards
330.2830	Submission of a Program Narrative
330.2840	New Constructions, Additions, Conversions, and Alterations
330.2850	Preparation and Submission of Drawings and Specifications
330.2860	First Stage Drawings
330.2870	Second Stage Drawings
330.2880	Architectural Drawings
330.2890	Structural Drawings
330.3000	Mechanical Drawings
330.3010	Electrical Drawings
330.3020	Additions to Existing Structures
330.3030	Alterations
330.3040	Building Codes
330.3050	Site
330.3060	General Building Requirements
330.3070	Administration
330.3080	Corridors
330.3090	Bath and Toilet Rooms
330.3100	Living, Dining, and Activity Rooms
330.3110	Bedrooms
330.3120	Special Care Room
330.3130	Kitchen
330.3140	Laundry
330.3150	Housekeeping, Service, and Storage
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	SUBPART N: FIRE PROTECTION STANDARDS FOR NEW SHELTERED CARE FACILITIES
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330.3310	Applicable Requirements (Repealed)
330.3320	Applicability of These Standards
330.3330	Fire Protection
330.3340	Fire Department Service and Water Supply
330.3350	General Building Requirements

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330.3360	Exit Facilities and Subdivision of Floor Areas
330.3370	Stairways, Vertical Openings, and Doorways
330.3380	Corridors
330.3390	Exit Lights and Directional Signs
330.3400	Hazardous Areas and Combustible Storage
330.3410	Fire Alarm and Detection System
330.3420	Fire Extinguishers, Electric Wiring, and Fire Drills
330.3430	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills
	SUBPART O: DESIGN AND CONSTRUCTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES
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330.3610	Site
330.3620	General Building Requirements
330.3630	Administration
330.3640	Corridors
330.3650	Bath and Toilet Rooms
330.3660	Living, Dining, and Activity Rooms
330.3670	Bedrooms
330.3680	Special Care Room
330.3690	Kitchen
330.3700	Laundry Room
330.3710	Housekeeping and Service Rooms and Storage Space
330.3720	Plumbing and Heating
330.3730	Electrical
	SUBPART P: FIRE PROTECTION STANDARDS FOR EXISTING SHELTERED CARE FACILITIES
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330.3910	Fire Protection
330.3920	Fire Department Service and Water Supply
330.3930	Occupancy and Fire Areas
330.3940	Exit Facilities and Subdivision of Floor Areas
330.3950	Stairways, Vertical Openings, and Doorways
330.3960	Exit and Fire Escape Lights and Directional Signs
330.3970	Hazardous Areas and Combustible Storage
330.3980	Fire Alarm and Detection System
330.3990	Fire Extinguishers, Electric Wiring, and Miscellaneous
330.4000	Use of Fire Extinguishers, Evacuation Plan, and Fire Drills
	SUBPART Q: RESIDENT'S RIGHTS
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330.4210	General
330.4220	Medical and Personal Care Program
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330.4240 Abuse and Neglect  
330.4250 Communication and Visitation  
330.4260 Resident's Funds  
330.4270 Residents' Advisory Council  
330.4280 Contract With Facility  
330.4290 Private Right of Action  
330.4300 Transfer or Discharge  
330.4310 Complaint Procedures  
330.4320 Confidentiality  
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## SUBPART R: DAY CARE PROGRAMS

Section  
330.4510 Day Care In Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Sheltered Care Facilities  
APPENDIX B Classification of Distinct Part of a Facility For Different Levels of Service (Repealed)  
APPENDIX C Forums for Day Care in Long-Term Care Facilities  
APPENDIX D Criteria for Activity Directors Who Need Only Minimal Consultation  
APPENDIX E Guidelines for the Use of Various Drugs  
TABLE A Disaster Preparedness Parameters -- Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act (210 ILCS 45).

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, P. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, P. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 21241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill. Reg. 2952, effective February 23, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 10117, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; amended at 12 Ill. Reg. 16939, effective September 1, 1989; amended at 13 Ill. Reg. 6562, effective April 11, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective

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October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1995; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 537, effective January 14, 1996; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: PERSONNEL

## Section 330.911 Health Care Worker Background Check

a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (225 ILCS 46/25)):

- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3, the Criminal Code 9-3, 9-3.1, 9-3.2, 9-3.3, 9-4, 9-4.1, 9-4.2, 9-4.3, 9-4.4, 9-4.5, 9-4.6, 9-4.7, 9-4.8, 9-4.9, 9-4.10, 9-4.11, 9-4.12, 9-4.13, 9-4.14, 9-4.15, 9-4.16, 9-4.17, 9-4.18, 9-4.19, 9-4.20, 9-4.21, 9-4.22, 9-4.23, 9-4.24, 9-4.25, 9-4.26, 9-4.27, 9-4.28, 9-4.29, 9-4.30, 9-4.31, 9-4.32, 9-4.33, 9-4.34, 9-4.35, 9-4.36, 9-4.37, 9-4.38, 9-4.39, 9-4.40, 9-4.41, 9-4.42, 9-4.43, 9-4.44, 9-4.45, 9-4.46, 9-4.47, 9-4.48, 9-4.49, 9-4.50, 9-4.51, 9-4.52, 9-4.53, 9-4.54, 9-4.55, 9-4.56, 9-4.57, 9-4.58, 9-4.59, 9-4.60, 9-4.61, 9-4.62, 9-4.63, 9-4.64, 9-4.65, 9-4.66, 9-4.67, 9-4.68, 9-4.69, 9-4.70, 9-4.71, 9-4.72, 9-4.73, 9-4.74, 9-4.75, 9-4.76, 9-4.77, 9-4.78, 9-4.79, 9-4.80, 9-4.81, 9-4.82, 9-4.83, 9-4.84, 9-4.85, 9-4.86, 9-4.87, 9-4.88, 9-4.89, 9-4.90, 9-4.91, 9-4.92, 9-4.93, 9-4.94, 9-4.95, 9-4.96, 9-4.97, 9-4.98, 9-4.99, 9-5, 9-5.1, 9-5.2, 9-5.3, 9-5.4, 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9-16.52, 9-16.53, 9-16.54, 9-16.55, 9-16.56, 9-16.57, 9-16.58, 9-16.59, 9-16.60, 9-16.61, 9-16.62, 9-16.63, 9-16.64, 9-16.65, 9-16.66, 9-16.67, 9-16.68, 9-16.69, 9-16.70, 9-16.71, 9-16.72, 9-16.73, 9-16.74, 9-16.75, 9-16.76, 9-16.77, 9-16.78, 9-16.79, 9-16.80, 9-16.81, 9-16.82, 9-16.83, 9-16

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[illegible]

## DEPARTMENT OF PHYSICS

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- a) 152a-135 and 24-1.2); 111. Rev. Stat. 1961, ch. 38, Sections 152-152a, 155, 155a-158b, 414a-414c, 414e, and 415); 152a-135 Manufacture, delivery or trafficking of cannabis (Sections 5, 5.1, and 9 of the Cannabis Control Act [720 ICS 550/5, 5.1, and 9] formerly 111. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, and 709)); or
- b) 152a-135 Manufacture, delivery or trafficking of cannabis (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ICS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] formerly 111. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- c) The facility shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections 4(f) and (k) and (e) of this Section. (Section 25 of the Health Care Worker Background Check Act) For the purpose of this Section:
  - 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment;
  - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.
  - 3) "Direct care" means the provision of nursing or personal care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15-of the Health-Care-Worker-Background-Check-Act)
  - 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- d) Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (b) of this Section for a position with duties that involve direct care for residents, the employer must initiate or have initiated on his behalf a background check pursuant to Section 30(c) of the Health Care Worker Background Check Act if the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 7) The applicant's or employee's character references;  
 8) Nurse Aide Registry records; and  
 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

b) An individual may not be employed in a direct care position during the pendency of a waiver request. (Section 10(d) of the Health Care Worker Background Check Act)

c) A facility is not obligated to employ or offer permanent employment to an individual who has been employed by a licensed health care facility. (Section 40(f)(4) of the Health Care Worker Background Check Act)

d) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State; or

- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State. ~~or~~ (Section 20 of the Health-Care-Worker--Background Check-Act)

- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

g) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

i) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees, other than nurse-aides who are on the Department's Nurse-Aide Registry. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files #16 shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

j) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Numbers:  
 300.661  
 Amendments  
 300.663
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 300 regulate the licensure of skilled nursing and intermediate care facilities under the Nursing Home Care Act. The rules are being amended to conform to P.A. 89-674 (S.B. 1544), effective August 14, 1996, which amended the Act and the Health Care Worker Background Check Act.

Section 300.661 is being amended to clarify the statutory references in the list of disqualifying crimes. The criminal background checks issued by the Illinois Department of State Police may have numbers corresponding to numbering systems in previous editions of the statutes, depending on when the conviction occurred. Citations have been added to assist employers in reading the background checks. The citations for theft (including retail theft), financial exploitation of an elderly or disabled person, robbery, and burglary have been separated to clarify that they are different crimes. The definition of "direct care" is amended to include language from P.A. 89-674. A definition of "initiate" is added. A new subsection (e) requires the facility to transmit all necessary information to the State Police within 10 working days after receipt of an authorization to conduct a criminal background check, including the P.A. 89-674, also in accordance with the law, the time frame for requesting a waiver has been shortened from 30 days to 5 working days. A new subsection (1) states that the Department may accept the results of a fingerprint-based UCIA criminal records check if a person requesting a waiver has already had the fingerprint check done. Subsection (n) prohibits an individual from being employed in a direct care position during the pendency of a waiver request. The exemption from the law for students is clarified in subsection p(3). Facilities are required to retain the results of the background check and the waiver, if appropriate, for the duration of the individual's employment.

Section 300.663 is being amended to include language from the Act requiring nurse aides on the Nurse Aide Registry to notify the Department within 30 days of any change of address. The Department is also requiring that the Registry be informed of a nurse aide's name change.



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The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Recall Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? No
- 9) Are there any other Proposed Amendments Pending on this Part?

## Section Numbers Proposed Action Illinois Register Citation

300.615 Amendment 21 Ill. Reg. 1808

- 10) Statement of Statewide Policy/Objectives: This rulemaking does not create or expand a State Mandate.

- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito  
Division of Governmental Affairs  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, IL 62761  
217/782-6187

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

- 12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Skilled nursing and intermediate care facilities

## DEPARTMENT OF PUBLIC HEALTH

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- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Facilities are required to keep records of background checks and results and waivers for 5 years.

- C) Types of Professional Skills Necessary for Compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent regulatory agendas because: This rulemaking implements legislation (P.A. 89-674) that became effective after publication of the most recent regulatory agenda.

The full text of the Proposed Amendments begins on the next page:



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
 SUBCHAPTER C: LONG-TERM CARE FACILITIES

## PART 300

## SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

## SUBPART A: GENERAL PROVISIONS

Section	General Requirements
300.120	Application for License
300.130	License
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of a Renewal License
300.160	Criteria for Adverse License Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Individual Licenses
300.270	Transfer and Receivability
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators
300.292	Decondition Treatment Programs in Long-Term Care Facilities
300.310	Decondition May Survey Facilities Formerly Licensed
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

## DEPARTMENT OF PUBLIC HEALTH

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## SUBPART B: ADMINISTRATION

Section	Administrator
300.510	
Section	Resident Care Policies
300.610	Admission and Discharge Policies
300.620	Contract between Resident and Facility
300.630	Residents' Advisory Council
300.640	Resident Rights
300.650	Initial Health Evaluation for Employees
300.655	Nursing Assistants
300.660	Health Care Worker Background Check
300.661	Registry of Certified Nurse Aides
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents

## SUBPART D: PERSONNEL

Section	General
300.810	Categories of Personnel
300.820	Consultation Services
300.830	Personnel Policies
300.840	
Section	Medical Care Policies
300.1010	Communicable Disease Policies
300.1020	Tuberculin Skin Test Procedures
300.1030	Medical Emergencies
300.1035	Life-Sustaining Treatments
300.1040	Behavior Emergencies (Repealed)
300.1050	Dental Standards

## SUBPART F: NURSING AND PERSONAL CARE

Section	General Requirements for Nursing and Personal Care
300.1210	

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300.1220 Supervision of Nursing Services  
300.1230 Staffing  
300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section  
300.1400 Activity Program  
300.1420 Specialized Rehabilitation Services  
300.1430 Work Programs

SUBPART H: MEDICATIONS

Section  
300.1610 Medication Policies and Procedures  
300.1620 Conformance With Physician's Orders  
300.1630 Administration of Medication  
300.1640 Labeling and Storage of Medications  
300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

Section  
300.1810 Resident Record Requirements  
300.1820 Clinical and Social Records  
300.1830 Records Pertaining to Residents' Property  
300.1840 Retention and Transfer of Resident Records  
300.1850 Other Resident Record Requirements  
300.1860 Staff Responsibility for Medical Records  
300.1870 Retention of Facility Records  
300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section  
300.2010 Director of Food Services  
300.2020 Dietary Staff in Addition to Director of Food Services  
300.2030 Hygiene of Dietary Staff  
300.2040 Diet Orders  
300.2050 Adequacy of Diet and Meal Pattern  
300.2060 Therapeutic Diets  
300.2070 Specializing Meals  
300.2080 Menu Planning  
300.2090 Food Preparation and Service  
300.2100 Food Handling Sanitation  
300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

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Section  
300.2210 Maintenance  
300.2220 Housekeeping  
300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section  
300.2410 Furnishings  
300.2420 Equipment and Supplies  
300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

Section  
300.2610 Codes  
300.2620 Water Supply  
300.2630 Sewage Disposal  
300.2640 Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section  
300.2810 Applicability of These Standards  
300.2820 Codes and Standards  
300.2830 Preparation of Drawings and Specifications  
300.2840 Signage  
300.2850 Administration and Public Areas  
300.2860 Nursing Unit  
300.2870 Dining, Living, Activities Rooms  
300.2880 Therapy and Personal Care  
300.2890 Service Departments  
300.2900 General Building Requirements  
300.2910 Structural  
300.2920 Mechanical Systems  
300.2930 Plumbing Systems  
300.2940 Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section  
300.3010 Applicability  
300.3020 Codes and Standards  
300.3030 Preparation of Drawings and Specifications  
300.3040 Site  
300.3050 Administration and Public Areas

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300.3060 Nursing Unit  
300.3070 Living, Dining, Activities Rooms  
300.3080 Treatment and Personal Care  
300.3090 Service Departments  
300.3100 General Building Requirements  
300.3110 Structural  
300.3120 Mechanical Systems  
300.3130 Plumbing Systems  
300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

Section  
300.3210 Medical  
300.3220 General and Personal Care Program  
300.3230 Restraints  
300.3240 Abuse and Neglect  
300.3250 Communication and Visitation  
300.3260 Resident's Funds  
300.3270 Residents' Advisory Council  
300.3280 Contract With Facility  
300.3290 Private Right of Action  
300.3300 Transfer or Discharge  
300.3310 Complaint Procedures  
300.3320 Confidentiality  
300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

Section  
300.3410 Application of Other Divisions of These Minimum Standards  
300.3420 Administrator  
300.3430 Policies  
300.3440 Personnel  
300.3450 Resident Living Services Medical and Dental Care  
300.3460 Resident Services Program  
300.3470 Psychological Services  
300.3480 Social Services  
300.3490 Recreational and Activities Services  
300.3500 Individual Treatment Plan  
300.3510 Health Services  
300.3520 Dental Services  
300.3530 Diagnostic Services  
300.3540 Radiologic Services  
300.3550 Podiatric Services  
300.3560 Occupational Therapy Services  
300.3570 Nursing and Personal Care

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300.3590 Resident Care Services  
300.3600 Record Keeping  
300.3610 Food Service  
300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities)  
300.3630 Design and Construction Standards (New and Existing Facilities)

SUBPART R: DAYCARE PROGRAMS

Section  
300.3710 Day Care in Long-Term Care Facilities

APPENDIX A Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities  
APPENDIX B Classification of Distinct Part of a Facility for Different Services  
APPENDIX C Federal Regulations Pertaining Patients'/Residents' Rights  
APPENDIX D Forms for Day Care in Long-Term Care Facilities  
APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation  
APPENDIX F Guidelines for the Use of Various Drugs  
TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities  
TABLE B Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities  
TABLE C Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities  
TABLE D Disaster Preparedness Parameters - Relative Humidity and Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, P. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, P. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; amended at 8 Ill. Reg. 17667, amended at 8 Ill. Reg. 24188, effective November 29, 1984;

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amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 861, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 7089, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: POLICIES

## Section 300.661 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual after January 1, 1996 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25 of the Health Care Worker Background Check Act (225 ILCS 46/25)):
- 1) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3) (formerly Ill. Rev. Stat. 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, sec. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, Sections 3, 236, 338, 360, 361, 362, 363, 364, 365, 367, 370, 373, 374, 375, and 414(1);
  - 2) Kidnaping or child abduction (Sections 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and

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- 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, Sections 384-386(1);
- 3) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, Sections 252, 252.1, and 252.4(1);
- 4) Assault, battery or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1961, ch. 38, Sections 55, 56, and 56A-500(1);
- 5) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-13, 12-14, 12-15, and 12-16); Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, Sections 109, 141, 142, 490, and 491(1);
- 6) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 7) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 8) Elder abuse (Sections 16-1, 16-1.1, 16-1.2, 16-1.3, 16-1.4, 16-1.5, 16-1.6, 16-1.7, 16-1.8, 16-1.9, 16-1.10, 16-1.11, 16-1.12, 16-1.13, 16-1.14, 16-1.15, 16-1.16, 16-1.17, 16-1.18, 16-1.19, 16-1.20, 16-1.21, 16-1.22, 16-1.23, 16-1.24, 16-1.25, 16-1.26, 16-1.27, 16-1.28, 16-1.29, 16-1.30, 16-1.31, 16-1.32, 16-1.33, 16-1.34, 16-1.35, 16-1.36, 16-1.37, 16-1.38, 16-1.39, 16-1.40, 16-1.41, 16-1.42, 16-1.43, 16-1.44, 16-1.45, 16-1.46, 16-1.47, 16-1.48, 16-1.49, 16-1.50, 16-1.51, 16-1.52, 16-1.53, 16-1.54, 16-1.55, 16-1.56, 16-1.57, 16-1.58, 16-1.59, 16-1.60, 16-1.61, 16-1.62, 16-1.63, 16-1.64, 16-1.65, 16-1.66, 16-1.67, 16-1.68, 16-1.69, 16-1.70, 16-1.71, 16-1.72, 16-1.73, 16-1.74, 16-1.75, 16-1.76, 16-1.77, 16-1.78, 16-1.79, 16-1.80, 16-1.81, 16-1.82, 16-1.83, 16-1.84, 16-1.85, 16-1.86, 16-1.87, 16-1.88, 16-1.89, 16-1.90, 16-1.91, 16-1.92, 16-1.93, 16-1.94, 16-1.95, 16-1.96, 16-1.97, 16-1.98, 16-1.99, 16-2, 16-2.1, 16-2.2, 16-2.3, 16-2.4, 16-2.5, 16-2.6, 16-2.7, 16-2.8, 16-2.9, 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- Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, Sections 84-86, 88, and 501.1.
- 12) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4)).
- 13) Aaron (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 20-1 and 20-1.1)).
- 14) Manufacture, delivery or trafficking of weapons of a firearm (Sections 18-5.5 and 236-238-1.7; Ill. Rev. Stat. 1961, ch. 38, Sections 18-5.5 and 236-238-1.7).
- 15) Unlawful use of weapons of aggravated discharge of a firearm (Sections 24-1 and 24-1.2 of the Criminal Code of 1961 [720 ILCS 5/24-1 and 24-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2)).
- 16) Manufacture, delivery or trafficking of cannabis (Sections 152a, 155, 155a-158b, 414a-414e, and 414.3). (Ill. Rev. Stat. 1961, ch. 38, Sections 152, 152a, 155, 155a-158b, 414a-414e, and 414.3).
- 17) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 140, pars. 140.1, 140.1.1, 140.4, 140.5, 140.5.1, 140.7, and 140.7.1)).
- 18) The facility shall not knowingly employ or retain any individual after January 1, 1997 in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (4) and (k) and (m) of this Section. (Section 25 of the Health Care Worker Background Check Act)
- 19) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
  - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of any of the criminal offenses listed in subsections (a)(1)-(13) of this Section.
  - 3) "Direct care" means the provision of nursing or personal care or assistance with meals, dressing, movement, bathing, or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of managing his or her person whether or not a guardian has been appointed for that individual. (Section 15 of the Health Care Worker Background Check Act)

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- 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- 5) Beginning January 1, 1997, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (p) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. A UCIA criminal history record check has not been completed within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)
- 6) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
- 7) No later than January 1, 1997, a facility must initiate a UCIA criminal history record check for all employees who were hired before January 1, 1997, who have not already had a UCIA criminal history record check, and who are not exempt because of subsection (4) of this Section with respect to that employee's direct care for residents. Section 30(d) of the Health Care Worker Background Check Act.
- 8) The facility agency may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsections (d) or (4) of this Section.
- 9) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint UCIA criminal history record check search is made:
- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
  - 2) That the applicant or employee has a right to obtain a copy of the criminal records report, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (k) of this Section.
  - 3) That the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the offenses listed in subsections (a)(1)-(13) of this Section unless the applicant's identity is validated and it is determined that the applicant applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (i) of this Section or the employee receives a waiver pursuant to subsections (4) and (4) of this Section.





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criminal records requests for all employees other than nurse-aides who are on the Department's Nurse-Aide Registry. The facility shall retain the results of the UCA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files file shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act.)

3) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 300.663 Registry of Certified Nurse Aides

- a) An individual will be placed on the Nurse Aide Registry when he/she has successfully completed a training program approved in accordance with the Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395) and has met background check information required in Section 300.661 of this Part, and when there are no findings of abuse, neglect, or misappropriation of property in accordance with Section 300.661 and 300.662 of the Act.
- b) An individual will be placed on the Nurse Aide Registry if he/she has met background check information required in Section 300.661 of this Part and submits documentation supporting one of the following equivalencies:
- 1) Documentation of current registration from another state indicating that the requirements of 42 CFR 483.151 - 483.154 (October 1, 1994, no further amendments or editions included) have been met and that there are no documented findings of abuse, neglect, or misappropriation of property.
  - 2) Documentation of successful completion of a nursing arts course with at least 40 hours of supervised clinical experience in an accredited nurse training program as evidenced by a diploma, certificate or other written verification from the school and successful completion of the Department established nursing assistant competency test.
  - 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program Code (77 Ill. Adm. Code 395) and at least 40 hours of supervised clinical experience as evidenced by a diploma, certification, or other written verification and the written portion of the Department established nursing assistant competency test.
- c) An individual shall notify the Nurse Aide Registry of any change of address within 30 days and of any name change within 30 days and shall

## DEPARTMENT OF PUBLIC HEALTH

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submit proof of any name change to the Department. (Section 3-206.01 of the Act)

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## HEALTH FACILITIES PLANNING BOARD

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- 1) Heading of the Part: Health Facilities Planning Financial and Economic Feasibility Review
- 2) Code Citation: 77 Ill. Adm. Code 1120
- 3) Section Numbers: Proposed Action:  
 1120.10 Amendment  
 1120.20 Amendment  
 1120.110 Amendment  
 1120.130 Amendment  
 1120.210 Amendment  
 1120.310 Amendment  
 1120 Appendix A Amendment
- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]
- 5) A Complete Description of the Subjects and Issues Involved: Part 1120 contains the Health Facilities Planning Board's (State Board) rules regarding the economic and financial feasibility review criteria for health care facilities. These rules are one of the main tools used by the State Board in assessing the need for a proposed project under the Certificate of Construction program. These rules are divided into three categories of application review requirements: design type, information and some review criteria requirements, and update and change financial and economic feasibility standards to reflect financial and industry market trends and norms.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
 No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to establish a procedure designed to contain health care facilities that are proposed for construction or modification of health care facilities. Proposed amendments to Part 1120 will assist in this endeavor by strengthening the financial review criteria of applicants proposing new health care initiatives.
- 11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking: Interested persons may present their comments

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concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Donald Jones

Health Facilities Planning Board  
 Illinois Department of Public Health  
 Division of Facilities Development  
 525 West Jefferson, Second Floor  
 Springfield, Illinois 62761  
 217/782-3516

All written comments received within the 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held on Wednesday, April 16, 1997 at 1:30 p.m. at the Hilton Hotel, 7th and Adams Streets, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
  - 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time for each person's opening and closing statements. The time for individual testimony based on the number of persons wishing to testify. All testimony shall conclude at the specific time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
  - 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.
- These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Donald Jones at the above address.
- Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

## HEALTH FACILITIES PLANNING BOARD

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A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small businesses.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 1996

The full text of the Proposed Amendment begins on the next page:

## HEALTH FACILITIES PLANNING BOARD

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TITLE 77: PUBLIC HEALTH  
CHAPTER 111: HEALTH FACILITIES PLANNING BOARD  
SUBCHAPTER 01: OTHER BOARD RULES

## PART 1120

## HEALTH FACILITIES PLANNING FINANCIAL AND ECONOMIC FEASIBILITY REVIEW

## SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

Section  
1120.110  
1120.120  
1120.130

Statutory Authority and Definitions  
Applicability and Review Requirements

## SUBPART B: INFORMATION REQUIREMENTS

Section  
1120.110  
1120.120  
1120.130

Project and Related Cost Data  
Information Requirements for Financial Feasibility  
Information Requirements for Economic Feasibility

## SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

Section  
1120.210

Financial Feasibility Review Criteria

## SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

Section  
1120.310

Economic Feasibility Review Criteria

## APPENDIX A Financial and Economic Review Standards

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Emergency amendments at 16 Ill. Reg. 13132, effective August 4, 1992, for a maximum of 150 days; emergency expired on January 1, 1993; adopted at 17 Ill. Reg. 4431, effective March 22, 1993; recodified at 20 Ill. Reg. 2596, effective January 26, 1996; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: STATUTORY AUTHORITY, DEFINITIONS, APPLICABILITY AND REVIEW REQUIREMENTS

## Section 1120.10 Statutory Authority and Definitions

a) Statutory Authority



## HEALTH FACILITIES PLANNING BOARD

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1 must be provided for each co-applicant.

Table I

Information Requirements		Review Category	
		A	B
Project Cost Data (Section 1120.110)		Yes	Yes
Sources and Uses of Funds (Section 1120.120)		Yes	Yes
Historical Financial Statements (Section 1120.130(a))		Yes	Yes
Depreciation and Amortization (Section 1120.130(b))		No	Yes
Historical and Projected Patient Statistics (Section 1120.130(c))		No	Yes
Projected Financial Statements (Section 1120.130(d))		Yes	Yes
Assumptions (Section 1120.130(e))		Yes	Yes
Projected Capital Costs (Section 1120.130(f))		No	Yes
Projected Operating Costs (Section 1120.130(g))		Yes	Yes
Projected Capital and Operating Costs (Section 1120.130(h))		No	Yes

Table II

Applicable Review Criteria	Review Category		
	A	B	C
Financial Viability (Section 1120.210(a))	Yes*	Yes*	Yes

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Availability of Funds (Section 1120.210(b))	Yes	Yes	Yes
<u>Operating Start Up Costs (Section 1120.210(c))</u>	No	Yes	Yes
Reasonableness of Financing Arrangements (Section 1120.310(a))	No	Yes	Yes
Terms of Debt Financing (Section 1120.310(b))	Yes	Yes	Yes
Costs of Debt Financing (Section 1120.310(c))	No	Yes	Yes
Reasonableness of Project Costs (Section 1120.310(d))	Yes	Yes	Yes
Reasonableness of Resultant Operating Costs (Section 1120.310(e))	Yes	Yes	Yes
Total Effect on Capital Costs (Section 1120.310(f))	No	<u>Yes</u> No	Yes
Non-Patient Related Services (Section 1120.310(g))	No	<u>Yes</u> No	Yes
Capitals-only-to-applications-for-which-the applicant-has-\$1-million-or-more-of-capital assets.			
Amended at 21 Ill. Reg. _____			effective _____

## SUBPART B: INFORMATION REQUIREMENTS

## Section 1120.110 Project and Related Cost Data

establish-health-care-facilities	Review Criteria	Applicable Review Criteria	Review Category	Estimated Total Project Cost	a)
d)	Category A and 7 By--and--e applications will be reviewed for conformance with the applicable review criteria specified in Table II.	A B C	Yes* Yes* Yes	The applicant shall provide project cost information for each of the following components as is applicable. When a project or any component of a project is to be accomplished by lease, donation, gift or any other means, the fair market value or dollar value which would have been required for purchase, construction, or acquisition shall be included in the estimated total project cost. The applicant shall submit documentation as to the fair market or dollar value in accordance with the requirements of 77 Ill. Adm. Code 1190.40.	1) Preplanning costs--includes costs incurred prior to the submission of an application, such as development and feasibility studies, market studies, legal fees, bid solicitation, etc.; 2) Site survey and soil investigation fees--includes costs for surrounding surveying of a proposed project site and resulting

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## soil investigation fees;

- 3) Site preparation including-----demolition-----of-----existing structures-----includes costs of rental equipment for earthwork, concrete, lifting and hoisting, site drainage, utilities, demolition of existing structures, clearing, grading and earthwork; work includes costs of drainage, lines, utilities, sewage, roads, and walks;
- 4) Construction and modernization contracts including-----fixed equipment-----includes expenses covered under the construction contract, including major medical and other fixed equipment, contractor's overhead and profit;
- 5) Contingencies-----means an allowance for unforeseeable events relating to construction or modernization;
- 6) Architectural & engineering fees-----includes fees associated with the development and implementation of drawings and design materials for a proposed project;
- 7) Consulting and other fees-----includes charges for the services of various types of consulting and professional expertise, including environmental impact, acoustical studies, computer software fees, etc.;
- 8) Nondebt capital equipment not in construction contracts-----includes the cost of all equipment and the cost of installation of the equipment, excluding any trade-in allowances on existing equipment;
- 9) Bond issuance expense-----includes all costs associated with the issuance of bonds to finance a project, including issuer's fees, bond counsel's fees, official statements (feasibility study), official statement printing, printing of bonds, survey of the collateral site, title insurance to property, auditor's fees, trustee fees, underwriters' discount, and government fees (if applicable);
- 10) Net interest expense during construction-----means the difference between interest earned on funds for construction and interest expense on the amount of borrowed funds;
- 11) Other costs which are to be capitalized-----includes miscellaneous fees and working capital expenses related to the project and acquisition of buildings or other property-----includes the cost incurred for the acquisition of buildings or other property for the project;
- 12) Related Cost Data
  - 1) Land Acquisition Cost
 

The applicant shall provide the purchase price or fair market value, whichever is applicable, for the acquisition of land that is required in order to undertake the project. Acquisition of land is not a capital expenditure and is not included as part of project costs.

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## 2) Operating Start-up Costs

- 2) Operating Start-up Costs
 

The applicant shall provide a schedule of estimated non-capitalized operating start-up costs and an estimate of any initial operating deficit.

ASSET VALUE. Any capitalized costs which are related to the estimated project costs of a facility must be included in the total estimated project costs.
- 3) Construction and Modernization Costs and Schedule
 

The applicant shall provide construction-and-modernization-costs on-the-basis-of-cost-per-square-foot-and-a construction or project completion schedule which details the anticipated dates and percent of project shows-dollar-expenditures-by-month-and year-through-project completion.
- 4) Debt Service Reserve Fund
 

Applicants shall provide the amount that will be placed in a debt service reserve fund and shall also provide the terms and conditions of uses of the fund.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 1170.130 Information Requirements for Economic Feasibility

- a) Historical Financial Statements
 

The applicant must provide the most recent three years' audited financial statements including the following:

  - 1) Balance sheet;
  - 2) Income statement;
  - 3) Changes in fund balance; and
  - 4) Change in financial position.
- b) Depreciation and Amortization
 

The applicant must provide estimated depreciation and amortization costs and a related schedule for the project.
- c) Historical and Projected Patient Statistics
 

The applicant must provide a statement of patient statistics including at least patient days by level of care, beds by level of care, net revenue and patient days by source of payment for three-years-through the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization (must be to I. Adm. Code 1100, whichever is later. The projections must be based upon the target utilization levels.
- d) Projected Financial Statements
 

The applicant must provide projected annual financial statements including balance sheets, income statements, and changes in financial positions position for: a-period-extending-from-the-latest-audited fiscal-year-through:

  - 1) The first full fiscal year after project completion; or
  - 2) For the first full fiscal year when the project achieves or

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exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later. The projections must be based upon the target utilization levels.

## e) Assumptions

The applicant must provide the assumptions used in the projections of patient statistics and financial statements including the following:

- 1) Basis underlying the assumptions;
- 2) Substantiation of data, formulae, and references employed in the assumptions.

## f) Projected Capital Costs

The applicant must provide the annual projected capital costs (depreciation, amortization, and interest expense) for, including:

- 1) Annual capital costs; and
- 2) The projected capital costs shall be for the following period:
  - 1) The first full fiscal year after project completion; or
  - 2) The first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

## g) Projected Operating Costs

The applicant must provide projected operating costs (excluding depreciation and stated in current dollars based on the full-time equivalents (FTE FTE's) and other resource requirements) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, including:

- 1) Annual operating costs; and
- 2) Annual operating costs change (increase or decrease) attributable to the project.

## h) Projected Capital and Operating Costs

The applicant must provide the projected total costs (the sum of capital and operating costs items from subsections (f) and (g) above) for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to Part 1100, whichever is later.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## SUBPART C: FINANCIAL FEASIBILITY REVIEW CRITERIA

## Section 1120.210 Financial Feasibility Review Criteria

## a) Financial Viability--Review Criterion

## 1) Viability Ratios

Applicants (including co-applicants) who have 91-million-or-more in-capital assets must document compliance with viability ratio standards detailed in Appendix A of this Part or address a

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variance. Applicants must document compliance for the most recent three years for which audited financial statements are available. For Category B applications, the applicant also must document compliance through the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, or address a variance. ~~Applicants must document compliance for the most recent three years for which audited financial statements are available. For Category B applications, the applicant also must document compliance through the first full fiscal year after project completion or for the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later, or address a variance.~~

## A. Financial Viability--Review Criterion

## 1) Variance for Applications Not Meeting Ratios

Applicants not in compliance with any of the viability ratios must document the reasons for non-compliance. The applicant organization, public or private, shall assume the legal responsibility to meet the debt obligations should the applicant default, or

the applicant must document that financial resources shall be available to meet the debt obligations or exceed any start-up expenses and any initial operating deficit.

## 2) Availability of Funds--Review Criterion

The applicant must document that financial resources shall be available and be equal to or exceed the estimated total project cost and any related cost.

## 3) Operating Start-up Costs--Review Criterion

The applicant must document that financial resources shall be available to meet the debt obligations or exceed any start-up expenses and any initial operating deficit.

## SUBPART D: ECONOMIC FEASIBILITY REVIEW CRITERIA

## Section 1120.310 Economic Feasibility Review Criteria

## a) Reasonableness of Financing Arrangements--Review Criterion

The applicant must document that the project will be funded with cash and equivalents including investment securities, unrestricted funds, and funded depreciation as currently defined by the Medicare regulations (42 U.S.C. 1395) unless cash and equivalents must be retained for either of the following:

- 1) a portion or all of the cash and equivalents must be retained in the balance sheet asset accounts in order that the current ratio does not fall below 2.0 times; or
- 2) the applicant must document that the liquidation of existing investments (including co-applicants) who have 91-million-or-more in-capital assets must document compliance with viability ratio standards detailed in Appendix A of this Part or address a



## HEALTH FACILITIES PLANNING BOARD

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The applicant must document that the selected form of debt financing project will be at the lowest net cost available or if a more costly form of financing is selected, that form is more advantageous due to such terms as prepayment privileges, no required mortgage, access to additional indebtedness, term (years), financing costs, and other factors. The applicant shall also document that the expenses incurred with leasing a facility and/or equipment are less costly than constructing a new facility or purchasing new equipment.

- c) Costs of Debt Financing--Review Criterion  
The applicant must document that the costs of debt financing (i.e., debt service) shall not exceed the standards detailed in Appendix A of this Part.

1) In determining compliance with the debt services standards, the applicant shall document that the debt and interest costs shall be reduced by the amount of debt for those obligations which can readily be retired from existing investments.

2) The applicant must document that the existing investments (being retained to retire such debt) are liquid and that the ability exists to retire such debt within 60 days. The applicant must also provide documentation of the investment portfolio to verify the liquidity of such investments.

- d) Reasonableness of Project and Related Costs--Review Criterion

1) Construction and Modernization Costs  
Construction and modernization costs per square foot for non-hospital based ambulatory surgical treatment centers and for facilities for the developmentally disabled, and for chronic renal dialysis treatment centers projects shall not exceed the standards detailed in Appendix A of this Part. For all other projects, construction and modernization costs per square foot shall not exceed the additional construction economies of scale basis of (one) third quartile as provided for in the Means Building Construction Cost Data publication.

2) Contingencies  
Contingencies (stated as a percentage of construction costs for the stage of architectural development) shall not exceed the standards detailed in Appendix A of this Part. Contingencies shall be for construction or modernization only and shall be included in the cost per square foot calculation.

AGENCY NOTE: If subsequent to permit issuance contingencies are proposed to be used for other line item costs, an alteration to the permit (as detailed in 77 Ill. Adm. Code 1130.750) must be approved by the State Board prior to such use.

3) Architectural Fees  
Architectural fees shall not exceed the fee schedule standards detailed in Appendix A of this Part.

4) Major Medical and Movable Equipment  
A) For each piece of major medical equipment, the applicant must document that the lowest net cost available has been

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selected, or if not selected, that the choice of higher cost equipment is justified due to such factors as, but not limited to, maintenance agreements, options to purchase, or greater diagnostic or therapeutic capabilities.

- B) Total movable equipment costs shall not exceed the standards for equipment as detailed in Appendix A of this Part.

- 5) Other Project and Related Costs

The applicant must document that any preplanning, acquisition, site survey and preparation costs, debt service reserve funds, net interest expense and other estimated costs do not exceed industry norms based upon a comparison with similar projects that have been reviewed.

- e) Reasonableness of Project and Related Costs--Review Criterion  
The applicant must document that the operating costs resulting from the project shall be reasonable in relation to the operating costs of comparable providers and similar services based upon cost analysis detailed in Appendix A of this Part.

- f) Total Effect of the Project on Capital Costs--Review Criterion

1) The applicant must document that:

1) The total total projected annual capital costs (in current dollars per equivalent patient day for the first full fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later) shall be reasonable in comparison to comparable providers and similar services and not exceed the standards detailed in Appendix A of this Part or 77

2) There will be a reduction in the applicant's annual operating costs which equals or exceeds the projected annual capital cost attributable to the project.

- g) Non-Patient Related Costs--Review Criterion  
The applicant must document that projects involving non-patient related services (doctors' offices, parking garages, day care centers, independent living units, armariums, etc.) will be self-supporting and not result in increased charges to patients or that increased charges to patients are justified based upon such factors as, but not limited to, a cost benefit or other analysis which demonstrates that the project will improve the applicant's financial viability.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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## Section 1120, APPENDIX A Financial and Economic Review Standards

## Review Criterion 1120.210(a), Financial Viability

Current Ratio = 1.9±5

Current Assets/Current Liabilities

Net Margin Percentage = 3.5% for hospitals and facilitiesNet Income/Net operating revenue Other than long-term care 3%X 100% 2.5% for long-term care facilitiesPercent Debt to Total Capitalization = 60% for hospitalsLong-term debt/long-term debt and 80% for other facilities

unrestricted fund balance X 100%

Projected Debt Service Coverage =

Net Income + Depreciation + 3.18 for hospitals and facilitiesInterest + Amortization/ Other than long-term care ±5Principal and Interest (for year of 2.0 for long-term care facilities

maximum debt service after project

completion)

Days Cash on Hand =

Cash and Investments +

Board Designated Funds/

Operating Expense -

Depreciation Expense/365

Cushion Ratio =

Cash and Investments +

Board Designated Funds/

Maximum Annual Debt Service

AGENCY NOTE: If an applicant operates a hospital and other health care facilities, and has combined or consolidated financial statements, all of the hospital standards in this table shall apply to the applicant.

## Review Criterion 1120.310(c), Cost of Borrowed Funds

## HEALTH FACILITIES PLANNING BOARD

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## Review Criterion 1120.310(c), Cost of Borrowed Funds

Hospitals	Nursing/Gen+PE	ICF/DD	Skilled Care	ESRD's	ASTC's
				Per Station	Per OR
Debt Service/Equivalent Adjusted Patient Day					
\$51,117,442	\$12,849,46	\$14,994,669	\$12,23	\$112,18N/A	\$177,412N/A
Debt/Adjusted Bed					
\$99,633	22,333	N/A	N/A	N/A	N/A
Annual Debt Service + Lease Payment/Opening Room					
N/A	N/A	N/A	N/A	N/A	\$122,368

For hospital projects, adjustments for projected patient days and projected beds consist of utilizing the historical revenue from emergency and outpatient sources into inpatient revenues from routine and ancillary services.

## Review Criterion 1120.310(d), Reasonableness of Project and Related Costs

## Construction and Modernization Costs (per gross square foot)

Hospitals	Gen. LTC	ICF/DD	ESRDs	ASTCs
			ESRD's	ASTC's
New Construction Costs	Adjusted Third Quartile from Means	Adjusted Third Quartile from Means	\$495,46	\$497,92
			\$79,13	\$177,30
Modernization Costs	70% of above figure	70% of above figure	\$94,28	\$99,12
			N/A	\$105,65

AGENCY NOTE: Standards are based upon 1996 data and will be adjusted (inflated or deflated) by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1130. Appendix A) for review purposes to the first fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to

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77 Ill. Adm. Code 1100, whichever is later.

Type of Drawing	Contingencies	
	New Construction	Remodeling
Working drawings/Schematics	10%	10-15%
Preliminary Working Drawings	7%	7-10%
Final Working Drawings	3-5%	5-7%

CAPITAL DEVELOPMENT BOARD  
BASIC RATE AND/OR ANNUAL FIXED FEE SCHEDULE  
FOR ARCHITECTURAL AND ENGINEERING COSTS ARCHITECT-AND-ENGINEER

Construction and Contingencies Cost	ESRD		Independent Living, Shelters, Care, Apartments, Dining, Laundry, Parking Structures, Site Work, Warehouses
	Hospitals, Nursing Facilities, Developmental Centers, ASSTs, ASSTs, ESRD, Office Buildings	ESRD, Shelters, Care, Apartments, Dining, Laundry, Parking Structures, Site Work, Warehouses	
\$300,000	11.42%	10.41%	9.39%
350,000	11.44	10.13	9.11
400,000	10.88	9.81	8.87
450,000	10.65	9.64	8.62
500,000	10.43	9.41	8.40
550,000	10.20	9.19	8.17
600,000	10.14	9.13	8.11
650,000	10.01	9.00	7.98
700,000	9.90	8.88	7.87
750,000	9.80	8.78	7.77
800,000	9.70	8.68	7.67
850,000	9.59	8.58	7.56
900,000	9.51	8.50	7.48
950,000	9.45	8.44	7.42
1,000,000	9.39	8.38	7.36
1,250,000	9.19	8.17	7.16
1,500,000	9.03	8.01	7.00
1,750,000	8.88	7.87	6.85
2,000,000	8.76	7.74	6.73
2,250,000	8.63	7.61	6.60

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2,500,000	8.51	7.50	6.48
2,750,000	8.41	7.39	6.38
3,000,000	8.31	7.29	6.27
3,250,000	8.21	7.20	6.18
3,500,000	8.14	7.12	6.11
3,750,000	8.06	7.05	6.03
4,000,000	7.99	6.98	5.96
4,250,000	7.92	6.90	5.89
4,500,000	7.86	6.84	5.83
4,750,000	7.80	6.78	5.77
5,000,000	7.74	6.72	5.71
5,250,000	7.68	6.66	5.65
5,500,000	7.62	6.61	5.59
5,750,000	7.57	6.56	5.54
6,000,000	7.53	6.52	5.50
6,250,000	7.48	6.47	5.45
6,500,000	7.44	6.43	5.41
6,750,000	7.40	6.39	5.37
7,000,000	7.36	6.35	5.33
7,250,000	7.32	6.32	5.29
7,500,000	7.28	6.28	5.25
7,750,000	7.24	6.24	5.21
8,000,000	7.16	6.14	5.13
8,250,000	7.11	6.09	5.08
8,500,000	7.04	6.03	5.03
8,750,000	6.95	5.96	4.96
9,000,000	6.87	5.90	4.91
9,250,000	6.80	5.84	4.86
9,500,000	6.72	5.77	4.82
9,750,000	6.65	5.72	4.78
10,000,000	6.56	5.65	4.72
10,250,000	6.48	5.58	4.67
10,500,000	6.41	5.52	4.62
10,750,000	6.34	5.46	4.57
11,000,000	6.25	5.39	4.53
11,250,000	6.17	5.33	4.49
11,500,000	6.10	5.28	4.43
11,750,000	6.02	5.21	4.38
12,000,000	5.94	5.15	4.32
12,250,000	5.86	5.09	4.29
12,500,000	5.79	5.02	4.23
12,750,000	5.71	4.95	4.18
13,000,000	5.64	4.89	4.13
13,250,000	5.55	4.82	4.09
13,500,000	5.48	4.77	4.03
13,750,000	5.40	4.70	3.99
14,000,000	5.32	4.63	3.94
14,250,000	5.24	4.57	3.90
14,500,000	5.17	4.51	3.84
14,750,000	5.10	4.44	3.80



## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENT

Various economic feasibility standards are based upon 1991 data and will be adjusted (inflated or deflated) by the lesser of 3% or the latest capital expenditure inflation factor as published pursuant to 77 Ill. Adm. Code 1180. Appendix A) for review purposes to the first fiscal year after project completion or the first full fiscal year when the project achieves or exceeds target utilization pursuant to 77 Ill. Adm. Code 1100, whichever is later.

(Source: Amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENT

- Heading of the Part: Practice and Procedure in Administrative Hearings
- 1) Code Citation: 77 Ill. Adm. Code 1180
  - 2) Section Numbers: Proposed Action: 1180.95 New Section
  - 3) Statutory Authority: Illinois Health Facilities Planning Act (20 ILCS 3960)
  - 4) A Complete Description of the Subjects and Issues Involved: Part 1180 contains the Health Facilities Planning Board's (State Board) administrative hearing procedures. The proposed new Section would allow any party involved in an administrative hearing the opportunity to file a written motion (prior to commencement of a hearing) contesting that the hearing officer or administrative law judge has a bias or a conflict of interest. The new Section would be consistent with Section 10-30 of the Illinois Administrative Procedure Act.
  - 5) Will this rulemaking replace any emergency rulemaking currently in effect? No
  - 6) Does this rulemaking contain an automatic repeal date? No
  - 7) Does this rulemaking contain incorporations by reference? No
  - 8) Are there any other proposed rulemakings pending on this Part? No
  - 9) Statement of Statewide Policy Objectives: The purpose of the Illinois Health Facilities Planning Act (Planning Act) is to establish a procedure designed to contain health care costs by preventing unnecessary construction or modification of health care facilities. The proposed new Section to Part 1180 will assist in this endeavor by strengthening the administrative hearing process.
  - 10) Time, Place and Manner in which interested persons may comment on this Proposed Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the Illinois Register to:

Donald Jones  
Health Facilities Planning Board  
Illinois Department of Public Health  
Division of Health Facilities Development  
525 West Jefferson, Second Floor  
Springfield, Illinois 62761  
(217) 782-3516

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENT

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held on Wednesday, April 16, 1997 at 1:30 p.m. at the Hilton Hotel, 7th & Adams Street, Springfield, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based on the number of persons wishing to testify. All testimony shall conclude at the specific times except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small businesses may present their comments in writing to Donald Jones at the above address.

Any small businesses (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Healthcare facilities that meet the definition of small businesses.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF PROPOSED AMENDMENT

not included on either of the 2 most recent agendas because: Rulemaking was not anticipated by the State Board when the 2 most recent regulatory agendas were published.

The full text of the Proposed Amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD  
NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER II: HEALTH FACILITIES  
PLANNING BOARD  
SUBCHAPTER b: OTHER BOARD RULES

PART 1180  
PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section 1180.10 The Right to an Administrative Hearing: Rules Applicable to Such Hearings

- 1180.20 Definitions
- 1180.30 Waiver of Hearing
- 1180.40 Parties to Hearings
- 1180.50 Appearance - Right to Counsel
- 1180.60 Time and Location
- 1180.70 Pleadings
- 1180.80 Amendments to Pleadings
- 1180.90 Motions
- 1180.95 Disqualification of Hearing Officer
- 1180.100 Form of Papers
- 1180.110 Service
- 1180.120 Conduct of Hearings
- 1180.130 Subpoenas
- 1180.140 Hearing Officer's Report and Final Decision
- 1180.150 Proposal for Decision
- 1180.160 Final Decision
- 1180.170 Records of Proceedings
- 1180.180 Miscellaneous
- 1180.190 Number of Copies of Pleadings to be Filed
- 1180.200 Applicability

AUTHORITY: Implementing Section 5-10(a)(1) and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100] and implementing Sections 10 and 11 and authorized by Section 12 of the Illinois Health Facilities Planning Act (20 ILCS 3960).

SOURCE: Filed December 19, 1975; rules repealed, new rules adopted by emergency action at 2 Ill. Reg. 51, p. 176, effective December 12, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 12, p. 181, effective March 23, 1979; emergency amendment at 6 Ill. Reg. 6902, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11595, effective September 9, 1982; codified at 8 Ill. Reg. 15482; recodified at 20 Ill. Reg. 2599; amended at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

Section 1180.95 Disqualification of Hearing Officer

Prior to commencement of a hearing, on written motion of any party supported by

HEALTH FACILITIES PLANNING BOARD  
NOTICE OF PROPOSED AMENDMENT

affidavit setting forth the facts upon which such motion is made, the hearing officer or administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to the State Board. The report shall include a proposed ruling on the motion and the reasons for the ruling. If the State Board determines that bias or a conflict of interest exists, it shall grant the motion and the Chairman shall appoint a new hearing officer or administrative law judge within 30 days after the State Board's determination. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest (Section 10-30 of the Illinois Administrative Procedure Act).

(Source: Added at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Regulations under Illinois Securities Law of 1953
- 2) Code Citation: 14 Ill. Adm. Code 130
- 3) Section Numbers: Proposed Action:  
130.293 New
- 4) Statutory Authority: 815 ILCS 5/11.A
- 5) A Complete Description of the Subjects and Issues Involved: A new Section provides for the notification, filing with and payment of fees to the Secretary of State by issuers of federally covered securities and the registration of securities for refusal to file.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
130.212	Amended	21 Ill. Reg. 2852 (February 28, 1997)
130.826	Amended	21 Ill. Reg. 3070 (March 14, 1997)
10) <u>Statement of Statewide Policy Objectives:</u> The proposed Section provides issuers of federally covered securities with a simplified and uniform notification system.		

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: All comments must be in writing and directed to:

Theresa R. Oxtoby  
Illinois Securities Department  
520 South Second Street  
Springfield, IL 62701  
(217) 782-2256

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Minimal impact on small companies as these companies previously were required to register these securities.
- B) Reducing, bookkeeping or other procedures required for compliance: A

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

simplistic notice is required to be filed with the Secretary of State.

- C) Types of professional skills necessary for compliance: None

- 13) Regulatory agenda on which this rulemaking was summarized: January 1997

The full text of the Proposed Amendments begins on the next page:



## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

## TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER I: SECRETARY OF STATE

## PART 130

## REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

## SUBPART A: RULES OF GENERAL APPLICATION

Section 130.100	Business Hours of the Securities Department
130.101	Computation of Time
130.110	Payment of Filing
130.120	Place of Filing
130.130	Date of Filing
130.135	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRD
130.140	Requirements as to Proper Form
130.141	Additional Information
130.142	Additional Exhibits
130.143	Information Unknown or Not Reasonably Available
130.144	Requirements as to Paper, Printing, and Language
130.145	Number of Copies--Signatures
130.190	Provisions for Granting of Variance from Rules

## SUBPART B: DEFINITIONS

Section 130.200	Definitions of Terms Used in the Act and the Rules
130.201	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130.202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130.205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130.210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130.211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6 or 7 of the Act
130.215	Definition of "Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
130.216	Definition of "Participates" and "Participation", as Used in Section 2.6 of the Act in Relation to Certain Transactions
130.220	Definition of "Regularly Engaged in Securities Sales Activities", as

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130.221	Used in Section 2.9 of the Act
130.225	Exclusion of Certain Persons from the Definition of Investment Adviser in Section 2.11 of the Act
130.233	Definition of "Investment Fund Shares", as Used in Section 2.15 of the Act in Relation to Certain Issuers
130.234	Definition of the Phrase "Promissory Note or Draft, Bill of Exchange or Bankers' Acceptance" as Used in Section 3(L) of the Act
130.235	Definition, For Certain Purposes, of the Terms "Employee Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.N and Section 3.O of the Act
130.241	Definition, For Certain Purposes, of the Terms "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.O of the Act
130.242	Definition of the Term "Institutional Investor" under Sections 4C and 4D of the Act
130.244	Definition of the Term "Financial Institution" under Sections 4C and 4D of the Act
130.245	Definition of "Issuer Required to File Reports Pursuant to the Provisions of Section 13 or Section 15(d) of the Federal 1934 Act" with Respect to Certain Foreign Private Issuers and "Reports Required to be Filled at Regular Intervals Pursuant to the Provisions of Section 13 or Section 15(d)" as Used in Section 4(F)(1) of the Act
130.246	Definition of the Terms "Balance Sheet" and "Income Statement", as Used in Section 4.F of the Act
130.247	Definition of the Terms "Residents of this State", "Aggregate Sales Price" and "Sales Made in Reliance Upon the Exemption" Under Section 4(G) of the Act and "General Advertising or General Solicitation" Under Sections 4(G), 4(H), 4(M) and 4(R) of the Act
130.248	Definition of the Term "Public" as Used in Section 4(G)(4) of the Act
130.250	Definition of the Terms "Offers for Sale" and "Solicitations of Offers to Buy", as Used in Section 4.L of the Act
130.251	Definition, For Certain Purposes, of the Terms "Commissions, Remuneration or Discounts", as Used in Section 4 and Section 5 of the Act
130.252	Definition of the Term "Maximum Aggregate Price", as Used in Section 5 of the Act
130.270	Definition of Certain Persons Not Considered to Be Dealers Under Section 2.7 of the Act
130.280	Definition of the Term "Branch Office", as Used in Section 8 of the Act
130.282	Definition, For Certain Purposes, of the Term "Officers", as Used in Section 2.9 and Section 8.B(16) of the Act
130.285	Definition, For Certain Purposes, of the Terms "Inequitable", "Tend to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section

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8 and Section 11 of the Act  
 Definition of the Terms "Fraudulent" and "Work or Tend to Work a Fraud or Deceive" as Used in Sections 11.1.b. and 12.1.f. of the Act for Purposes of the Prohibited Contract Connection Between the Secretary of State and Gas or Other Mineral Lease, Right or Royalty

## SUBPART C: FEDERAL COVERED SECURITIES AND TRANSACTIONS

## EXEMPT-SECURITIES

130.291 Section  
 130.292 Issuers of Covered Securities Required to File Notifications and Pay Fees and the Refusal to File Notifications of Pay Fees  
 130.370 Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required by One or More Exchanges Set Forth in Section 3(G) of the Act (Repealed)

## SUBPART D: EXEMPT TRANSACTIONS

130.420 Section  
 130.421 Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act

130.436 Procedures for Applying for Trading Authorization Pursuant to Section 4(P)(2) of the Act  
 130.440 Procedures for Filing Reports of Sale under Section 4(G) of the Act  
 130.441 Calculation of Number of Persons Under Section 4.G or 4.M of the Act  
 130.442 Report of Sale of Securities pursuant to Section 4(G) of the Act  
 130.490 Procedures for Filing Reports of Sale under Section 4.P of the Act  
 130.491 Report of Sale of Securities Pursuant to Section 4(P) of the Act

## SUBPART E: REGISTRATION OF SECURITIES

130.501 Section  
 130.502 Title of Securities  
 130.503 Financial Statement Requirements  
 130.504 Section 5.B of the Act  
 130.505 Formal Requirements as to Consents  
 130.506 Consents Required in Special Cases  
 130.507 Application to Dispense with Consent  
 130.508 Consent to Use of Material Incorporated by Reference  
 130.510 Procedures for Registration of Securities by Coordination under Section 5.A of the Act  
 130.520 Procedures for Registration of Securities by Qualification under Section 5.B of the Act  
 130.525 Procedures for Registration of Securities by Qualification under Section 5.B(7) of the Act, Small Company Offering Registration ("SCOR") on Form U-7  
 130.530 Renewal of Registration of Securities Under Section 5(B) of the Act

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130.531 Computation of Fees  
 130.532 Registration of Additional Securities Pursuant to Section 5(C)(2) of the Act  
 130.533 Formal Requirements for Amendments Under Section 5 of the Act  
 130.534 Powers to Amend or Withdraw Registration Statement  
 130.535 Signatures of Amendments  
 130.536 Delaying Amendments  
 130.538 Withdrawal of Registration Statement, Amendment or Exhibit Filed Under the Federal 1933 Act.

130.540 Procedure with Respect to Abandoning Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments

130.550 Additional Fees Under Section 5 of the Act  
 130.570 Legibility of Prospectuses  
 130.571 Presentation of Information in Prospectuses  
 130.572 Summaries or Outlines of Documents  
 130.573 Preparation of Application for Registration  
 130.574 Incorporation of Certain Information by Reference  
 130.575 Statement Required Upon Incorporation by Reference  
 130.576 Prospectus Required Upon Incorporation by Reference  
 130.577 Prospectuses Supplementing Preliminary Material Supplied Previously  
 130.578 Application of Amendments to this Part Governing Contents of Prospectuses

130.581 Statement as to Stabilizing Required in Prospectuses Filed Under Section 5.B of the Act  
 130.582 Contents of Prospectus When Two or More Registrations Are in Effect Under Section 5.B of the Act  
 130.590 Identifying Statements  
 130.591 Requirements as to Appraisals  
 130.592 Omission of Substantially Identical Documents  
 130.593 Incorporation of Exhibits by Reference

## SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

130.600 Section  
 130.601 Preamble  
 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 6.A of the Act  
 130.630 Renewal of Registration of Face Amount Certificate Contracts Under Section 6(P) of the Act  
 130.650 Additional Fees Under Section 6 of the Act

## SUBPART G: INVESTMENT FUND SHARES

130.700 Section  
 130.701 Preamble  
 130.702 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act

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130.710 Procedures for Registration of Investment Fund Shares by  
Coordination under Section 7.A of the Act  
130.715 Amending Statement for the Registration of Additional Class or  
Classes or the Reporting of a Change in Organization or Operations  
Pursuant to Section 7(D) of the Act  
130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G)  
of the Act  
130.750 Additional Fees Under Section 7 of the Act  
130.771 Acts Which "Work or Tend to Work a Fraud or Deceit", in Connection  
with Offers, Sales or Dispositions of Investment Fund Shares

## SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS AND INVESTMENT ADVISERS

Section  
130.805 Exemptions From Registration as an Investment Adviser Under Section  
(A) of the Act  
130.810 Procedures for Registration as a Dealer Under Section 8.B of the Act  
130.811 Procedures for Perfecting an Investment Adviser Exemption under  
Section 2.11(6) of the Act (Repealed)  
130.820 Procedure for Renewal and Withdrawal from Registration as a Dealer  
130.821 Reporting of Dealer Branch Office Location(s) and Required Fees  
130.822 Examinations Deemed Satisfactory for Purposes of Determining  
Sufficient Knowledge of Each Principal Under Section 8.B(9)(a) of  
the Act Prior to Registration as a Dealer  
130.823 Procedure for Requesting Waiver of Dealer, Salesperson or Investment  
Adviser Examination Requirements  
130.824 Financial Statements to be Filed by a Registered Dealer  
130.825 Records Required of Dealers and Customer Fees  
130.826 Registered Dealer Net Capital Requirement  
130.827 Confirmations  
130.828 Notice of Materially Adverse Financial Condition Required to be  
Filed with the Securities Department by a Registered Dealer  
130.829 Investor Protection Requirement of a Dealer Registered Under Section  
8 of the Act  
130.832 Examinations Deemed Satisfactory for Purposes of Determining  
Sufficient Knowledge Under Section 8(C)(7) of the Act for  
Registration as a Salesperson  
130.840 Procedures for Registration as an Investment Adviser Under Section  
8.D of the Act  
130.841 Reporting of Investment Adviser Branch Office Location(s) and  
Required Fees  
130.842 Examinations and Education Programs Deemed Satisfactory for Purposes  
of Determining Sufficient Knowledge for Each Principal Under Section  
8(D)(9) of the Act Prior to Registration as an Investment Adviser  
Statement of Financial Condition to be Filed By a Registered  
Investment Adviser Which Retains Custody of Client's Cash or  
Securities or Accepts Pre-Payment of Fees in Excess of \$500.00 Per  
Client and Six (6) or More Months in Advance and Interim Financial

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Statements  
130.845 Records Required of Investment Advisers  
130.846 Written Disclosure Statements of a Registered Investment Adviser  
130.847 Financial and Disciplinary Information That Investment Advisers Must  
Disclose to Clients  
130.850 Account Transactions  
130.851 Commission, Profit or Other Compensation  
130.852 Compensation  
130.853 Account Transactions  
130.854 Use of the Term "Investment Counsel"  
130.860 Additional Fees Under Section 8 of the Act  
130.872 Procedure with Respect to Abandoned Dealer Applications  
130.873 Procedure with Respect to Abandoned Investment Adviser Applications

## SUBPART J: SERVICE OF PROCESS

Section  
130.1001 Service of Process upon the Secretary of State

## SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section  
130.1100 Preamble  
130.1101 Qualifications and Duties of the Hearing Officer  
130.1102 Notice of Hearing  
130.1103 Institution of a Contested Case by the Securities Department  
130.1104 Requirement to File an Answer  
130.1105 Amendment or Withdrawal of the Notice of Hearing  
130.1106 Representation  
130.1107 Special Appearance  
130.1108 Substitution of Parties  
130.1109 Failure to Appear  
130.1110 Motions  
130.1111 Requirements Relating to Continuances  
130.1112 Rules of Evidence  
130.1113 Form of Pleadings  
130.1114 Bill of Particulars  
130.1115 Discovery  
130.1116 Examination of Witnesses  
130.1117 Subpoenas  
130.1118 Pre-Hearing Conferences  
130.1119 Record of a Pre-Hearing Conference  
130.1120 Hearings  
130.1121 Record of Proceedings  
130.1122 Record of Hearing  
130.1123 Orders  
130.1124 Burden of Proof  
130.1125 Stipulations



## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

American Stock Exchange, or that is listed on the National Market System of the Nasdaq Stock Market, or any successor to such entities, or listed or authorized for listing on a national securities exchange, or tier or segment thereof, that has listing standards that the federal SEC by rule, on its own initiative or on the basis of petition determines are substantially similar to the listing standards applicable to securities described in this Section, or is a security of the same issuer that is equal in seniority or that is a senior security.

(Source: Added at 21 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Conformity: Criteria and Procedures
- 2) Code Citation: 35 Ill. Adm. Code 255
- 3) Section Numbers:

255.100	Add
255.110	Add
255.120	Add
255.140	Add
255.150	Add
255.160	Add
255.170	Add
255.180	Add
255.190	Add
255.200	Add
255.210	Add
255.220	Add
255.230	Add
255.240	Add
- 4) Statutory Authority: Sections 4 and 9.1 of the Environmental Protection Act [415 5/4 and 9.1].
- 5) Effective Date of Rules: March 6, 1997
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? Yes
- 8) Date filed in Agency's Principal Office: February 18, 1997
- 9) Notice of Proposal Published in Illinois Register: September 11, 1996, at 20 Ill. Reg. 12543.
- 10) Has JCRA issued a Statement of Objections to these rule(s)? No
- 11) Differences between proposal and final version: The following changes have been made in the final version of the rules:
  - Deleted the reference to the "Interstate Surface Transportation Efficiency Act" as follows:
 

Section 255.120 Applicability

a) Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under the Interstate-Surface-Transportation-Efficiency Act-(1996A)-t Title 23 U.S.C.) or the Federal Transit Act (49

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

U.S.C. 1601 et seq.) are not subject to the requirements of this Part.

## Section 255.140 Definitions

"Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under ISBEA-423 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase of the non-Federal undertaking that requires the Federal permit, license, or approval.

"Metropolitan planning organization (MPO)" means that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under Section 134 of the ISBEA-423 U.S.C. 1344 and Section 1607 of the Federal Transit Act (49 U.S.C. 1607).

## Section 255.150 Abbreviations

ISBEA--Intermodal-Surface-Transportation  
Efficiency-Act

Updated the reference to an incorporation by reference as follows:

## Section 255.160 Incorporations by Reference

- e) "Guideline on Air Quality Models" Part 51--Requirements for Preparation, Adoption and Submittal of Implementation Plans, 40 CFR Part 51, (August 17, 1996), incorporated by reference in Section 255.160 of this Part, unless "Guideline on Air Quality Models" Part 51, (August 17, 1996), including supplements--including Supplement of BAGEPS--BPAV-MB-14--Research-Triangle-Party-NG-2711.

## Section 255.230 Procedures for Conformity Determinations of General Federal Actions

- c) Any air quality modeling analyses necessary to demonstrate conformity shall be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models" Part 51--Requirements for Preparation, Adoption and Submittal of

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

Implementation Plans, 40 CFR Part 51, Appendix W, 61 Fed. Reg. 41837 (August 17, 1996), incorporated by reference in Section 255.160 of this Part, unless "Guideline on Air Quality Models" Part 51, (August 17, 1996), including supplements--including Supplement of BAGEPS--BPAV-MB-14--Research-Triangle-Party-NG-2711.

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes, the changes have been made.

- 13) Will these amendments replace emergency rules currently in effect? No

- 14) Are there any amendments pending on this Part? No

- 15) Summary and purpose of the Adopted Rules: These proposed rules are required by Section 176 of the Clean Air Act, as amended in 1990. Illinois is required to adopt criteria and procedures for federal agencies to use in determining whether their actions (e.g., funding, permitting) in a nonattainment or maintenance area are consistent with the applicable State implementation plan (SIP). These rules, apply to the following State implementation plans (SIPs): 1990, 1996, 1997, 1998, and 1999. Jersey County areas for sulfur dioxide--Morris/Well area, and for PM-10--Granite City, Lake Calumet, McCook, and Oglesby.

- 16) Information and questions regarding these adopted rules shall be directed to:

Rachel L. Doctors  
Assistant Counsel  
Illinois EPA  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62704-9276  
(217) 524-3333

The full text of the adopted amendments begins on the next page:



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 35, ENVIRONMENTAL PROTECTION

## SUBTITLE B, AIR POLLUTION

## CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

## PART 255

## GENERAL CONFORMITY: CRITERIA AND PROCEDURES

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AUTHORITY: Authorized and implemented by Sections 4 and 9.1 of the Environmental Protection Act (415 ILCS 5/4 and 9.1).

SOURCE: Adopted at 21 Ill. Reg. 3581 effective 3/1/94.

## Section 255.100 Purpose

The purpose of this Part is to establish criteria and procedures substantively similar to 40 CFR 93. Subpart 1, whereby Federal agencies required to make conformity determinations of Federal actions to Illinois' air quality implementation plans may consult and coordinate with the IDPA.

## Section 255.110 Federal Requirement

- Section 176(b)(1) of the Federal Clean Air Act (CAA) requires that any department, agency, or instrumentality of the Federal Government that engages in, supports in any way, provides financial assistance for, licenses, permits, or approves any activity must conform to an applicable implementation plan.
- A Federal agency must make a determination that a Federal action conforms to the applicable implementation plan before the action is taken.
- Subsection (b) of this Section does not include Federal actions where

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## either:

- A National Environmental Policy Act (NEPA) analysis was completed and evidenced by a final environmental assessment (EA), environmental impact statement (EIS), or other document of no significant impact (FONSI) that was prepared prior to January 31, 1994;
  - Prior to January 31, 1994, an EA was commenced or a contract was awarded to develop the specific environmental analysis;
  - Sufficient environmental analysis is completed by March 15, 1994, so that the Federal agency may determine that the Federal action is in conformity with the specific requirements and the purposes of the applicable SIP pursuant to the Federal agency's affirmative obligation under section 176(c) of the CAA; or
  - A written determination of conformity under section 176(c) of the CAA has been made by the Federal agency responsible for the Federal action by March 15, 1994.
- Notwithstanding any provisions of this Part, a determination that an action is in conformity with the applicable implementation plan does not exempt the action from any other requirements of the applicable implementation plan, the NEPA, or the CAA.

## Section 255.120 Applicability

- Conformity determinations for Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.) are not subject to the requirements of this Part.
- For Federal actions not covered by subsection (a) of this Section and not exempt pursuant to Section 255.170 of this Part, a conformity determination is required for each pollutant where the total of direct and indirect emissions in a nonattainment or maintenance area caused by a Federal action would equal or exceed any of the rates in subsection (b)(1) or (b)(2) of this Section:

- Nonattainment Areas:

Tons/Year

Ozone (VOC's or NO(x)):	
Serious NAA's	50
Severe NAA's	25
Extreme NAA's	10
Other ozone NAA's outside an ozone transport region	100
Marginal and moderate NAA's inside an ozone transport region:	
VOC	50



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## NO(x)

Carbon monoxide: 100

All NAA's 100

SO(2) or NO(2): 100

All NAA's 100

PM-10: 100

Moderate NAA's 70

Serious NAA's 70

PB: 25

All NAA's 25

## 2) Maintenance Areas:

Tons/Year

Ozone (NO(x)) SO(2) or NO(2):

All maintenance areas 100

Ozone (VOC's):

Maintenance areas inside an ozone 50

transport region 100

Maintenance areas outside an ozone 100

transport region 100

Carbon monoxide:

All maintenance areas 100

PM-10:

All maintenance areas 100

PB:

All maintenance areas 25

## Section 255.140 Definitions

Terms used but not defined in this Part shall have the meaning given to them by the CAA and USEPA's regulations (40 CFR Chapter I) in that order of priority:

"Affected Federal land manager" means the Federal agency or the Federal official charged with direct responsibility for management of an area designated as Class I under the CAA (42 U.S.C. 7472) that is located within 100 km of the proposed Federal action.

"Applicable implementation plan or applicable SIP" means the portion

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(or portions) of the SIP or most recent revision thereof, which has been approved under section 110 of the CAA, or promulgated under section 100(c) of the CAA (Federal Implementation Plan), or promulgated under the Federal Implementation Plan, or promulgated under section 301(d) of the CAA and which implements the relevant requirements of the CAA.

"Areawide air quality modeling analysis" means an assessment on a scale that includes the entire nonattainment or maintenance area which uses an air quality dispersion model to determine the effects of emissions on air quality.

"Cause or contribute to a new violation" means a Federal action that:

Causes a new violation of a national ambient air quality standard (NAAQS) at a location in a nonattainment or maintenance area which would otherwise not be in violation of the standard during the future period in question if the Federal action were not taken; or

Contributes, in conjunction with other reasonably foreseeable actions, to a new violation of a NAAQS at a location in a nonattainment or maintenance area in a manner that would increase the frequency or severity of the new violation.

"Caused by", as used in the terms "direct emissions" and "indirect emissions", means emissions that would not otherwise occur in the absence of the Federal action.

"Criteria pollutant or standard" means any pollutant for which there is established a NAAQS at 40 CFR 50, incorporated by reference in Section 255.160 of this Part.

"Direct emissions" means those emissions of a criteria pollutant or its precursors that are caused or initiated by the Federal action and occur at the same time and place as the action.

"Emergency" means a situation where extremely quick action on the part of the Federal agencies involved is needed and where the timing of such Federal activities makes it impractical to meet the requirements of this Part, such as natural disasters like hurricanes or earthquakes, civil disturbances such as terrorist acts, and military mobilizations.

"Emissions budgets" are those portions of the applicable SIP's projected emissions inventories that describe the levels of emissions (mobile, stationary, area, etc.) that provide for meeting reasonable further progress milestones, attainment, and/or maintenance for any

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criteria pollutant or its precursors.

"Emissions offsets", for purposes of Section 255.220 of this Part, are emissions reductions which are quantifiable, consistent with the applicable SIP attainment and reasonable further progress demonstrations, surplus to reductions required by, and credited to, other applicable SIP provisions, enforceable at both the State and Federal levels, and permanent within the timeframe specified by the program.

"Emissions that a Federal agency has a continuing program responsibility for" means emissions that are specifically caused by an agency carrying out its authorities, and does not include emissions that occur due to subsequent activities, unless such activities are required by the Federal agency. Where an agency, in performing its normal program responsibilities, takes actions itself or imposes conditions that require that the actions be taken, such emissions, including subsequent actions, such emissions are covered by the meaning of a continuing program responsibility.

"Federal action" means any activity engaged in by a department, agency, or instrumentality of the Federal government, or any activity that a department, agency or instrumentality of the Federal government supports in any way, provides financial assistance for, licenses, permits, or approves, other than activities related to transportation plans, programs, and projects developed, funded, or approved under 23 U.S.C. or the Federal Transit Act (49 U.S.C. 1601 et seq.). Where the Federal action is a permit, license, or other approval for some aspect of a non-Federal undertaking, the relevant activity is the part, portion, or phase or the non-Federal undertaking that requires the Federal permit, license, or approval.

"Federal agency" means, for purposes of this Part, a Federal department, agency, or instrumentality of the Federal government.

"Increase the frequency or severity of any existing violation of any standard in any area" means to cause a nonattainment area to exceed a standard more often or to cause a violation at a greater concentration than previously existed and/or would otherwise exist during the future period in question, if the project were not implemented.

"Indirect emissions" means those emissions of a criteria pollutant or its precursors that:

Are caused by the Federal action, but may occur later in time and/or may be farther removed in distance from the action itself but are still reasonably foreseeable; and

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The Federal agency can practicably control and will maintain control over due to a continuing program responsibility of the Federal agency.

"Local air quality modeling analysis" means an assessment of localized impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, which uses an air quality dispersion model to determine the effects of emissions on air quality.

"Maintenance area" means an area with a maintenance plan approved under section 175A of the CMA.

"Maintenance plan" means a revision to the applicable SIP, meeting the requirements of section 175A of the CMA.

"Metropolitan Planning Organization (MPO)" means that organization designated as being responsible, together with the State, for conducting the continuing, cooperative, and comprehensive planning process under section 134 of 23 U.S.C. 134 and section 1607 of the Federal Transit Act (49 U.S.C. 1607).

"Milestone" has the meaning given in sections 82(g)(1) and 189(c)(1) of the CMA.

"National ambient air quality standards (NAAQS)" means those standards established pursuant to section 109 of the CMA and include standards for carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO<sub>2</sub>), ozone, particulate matter (PM-10), and sulfur dioxide (SO<sub>2</sub>).

"NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).

"Nonattainment area (NAA)" means an area designated as nonattainment under section 107 of the CMA and described in 40 CFR 81, incorporated by reference in Section 255.160 of this Part.

"Precursors of a criteria pollutant" means:

For ozone, nitrogen oxides (NO<sub>x</sub>) unless an area is exempted from NO<sub>x</sub> requirements under section 182(f) of the CMA, and volatile organic compounds (VOC); and

For PM-10, those pollutants described in the PM-10 nonattainment area applicable SIP as significant contributors to the PM-10 levels.

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"Reasonably foreseeable emissions" means projected future indirect emissions that are identified at the time the conformity determination is made; the location of such emissions is known and the emissions are quantifiable, as described and documented by the Federal agency based on its own information and after reviewing any information presented to the Federal agency.

"Regional water and/or wastewater projects" means construction, operation, and maintenance of water or wastewater conveyances, water or wastewater treatment facilities, and water storage reservoirs which affect a large portion of a nonattainment or maintenance area.

"Regionally significant action" means a Federal action for which the direct and indirect emissions of any pollutant represent 10 percent (1.10) or more of a nonattainment or maintenance area's emissions inventory for that pollutant.

"Total of direct and indirect emissions" means the sum of direct and indirect emissions increases and decreases caused by the Federal action; i.e., the "net" emissions, considering all direct and indirect emissions. The portion of emissions which are exempt or presumed to conform under subsections (a) through (g) of Section 255.170 are not included in the total of direct and indirect emissions. The "total of direct and indirect emissions" includes emissions of criteria pollutants and emissions of precursors of criteria pollutants.

## Section 255.150 Abbreviations

CMA	Clean Air Act	Comprehensive Environmental Response, Compensation and Liability Act
CEMCA	environmental assessment	environmental impact statement
EA	finding of no significant impact	Illinois Environmental Protection Agency
EIS	kilometer	metropolitan planning organization
FONS	mile	nonattainment area
TEPA	NAA	National Ambient Air Quality Standard
ka	NEPA	National Environmental Policy Act
MFO	NSR	New Source Review
mi	SIP	Prevention Significant Deterioration
NAA	state implementation plan	United States Environmental Protection Agency
NEPA	USEPA	

## Section 255.160 Incorporations by Reference

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The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- Determining Conformity of General Federal Actions to State or Federal Implementation Plans, 40 CFR 51, Subpart W.
- National Primary and Secondary Ambient Air Quality Standards, 40 CFR 50 (1995).
- Designations of Areas for Air Quality Purposes, 40 CFR 81 (1995).
- Compilation of Air Pollutant Emission Factors (AP-42) the Technical Support Division of OAQPS, EPA, MD-14, Research Triangle Park, NC 27711.
- "Guideline on Air Quality Models" Part 51 - Requirements for Preparation, Adoption, and Submittal of Implementation Plans, 40 CFR 51, Appendix W, 61 Fed. Reg. 41837 (August 12, 1996).

## Section 255.170 Activities Exempt from Conformity Analysis

The requirements of this Part shall not apply to:

- Actions where the total of direct and indirect emissions are below the emissions levels specified in subsections (b)(1) and (b)(2) of Section 255.120.
- The following actions which would result in no emissions increase or an increase in emissions that is clearly de minimis:

- Judicial and legislative proceedings.
- Continuing and recurring activities such as permit renewals where activities conducted will be similar in scope and operation to activities currently being conducted.
- Rulemaking and policy development and issuance.
- Routine maintenance and repair activities, including repair and maintenance of administrative sites, roads, trails, and facilities.
- Civil and criminal enforcement activities, such as investigations, audits, inspections, examinations, prosecutions, and the training of law enforcement personnel.
- Administrative actions such as personnel actions, organizational changes, debt management or collection, cash management, internal agency audits, program budget proposals, and matters relating to the administration and collection of taxes, duties and fees.
- The routine, recurring transportation of material and personnel.
- Routine movement of mobile assets, such as ships and aircraft, in home port reassignments and stations (when no new support facilities or personnel are required) to perform as operational groups and/or for repair or overhaul.
- Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.
- Actions, such as the following, with respect to existing facilities, such as the operation, maintenance, and repair of facilities and equipment, where future activities will be similar in scope and operation to activities conducted will be similar in scope and operation to

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- activities currently being conducted at the existing structures, properties, facilities, and lands; for example, relocation of personnel, disposition of federally-owned existing structures, properties, facilities, and lands, rent subsidies, operation and maintenance cost subsidies, the exercise of receivership or conservatorship authority, assistance in purchasing structures, and the production of coins and currency.
- 11) the granting of leases, licenses such as for exports and trade, permits, and easements where activities currently will be similar in scope and operation to activities currently being conducted.
- 12) Planning, studies, and provision of technical assistance.
- 13) Routine operation of facilities, mobile assets and equipment.
- 14) Routine operation of facilities, interests, and titles in land, facilities, and real and personal properties, regardless of the form of ownership or transfer.
- 15) The designation of empowerment zones, enterprise communities, or viticultural areas.
- 16) Actions by any of the Federal banking agencies or the Federal Reserve Banks, including actions regarding charters, applications, notices, licenses, the supervision or examination of depository institutions or depository institution holding companies, access to the discount window, or the provision of financial services to banking organizations or to any department, agency or instrumentality of the United States.
- 17) Actions by the Board of Governors of the Federal Reserve System or any Federal Reserve Bank to effect monetary or exchange rate policy.
- 18) Actions that implement a foreign affairs function of the United States.
- 19) Actions (or portions thereof) associated with transfers of land, facilities, title, and real properties through and across the boundaries of the States, and the determination of whether the deed is required to occur promptly after a specific, reasonable condition is met, such as promptly after the land is certified as meeting the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and where the Federal agency does not retain continuing authority to control emissions associated with the lands, facilities, title, or real properties.
- 20) Transfers of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity and assignments of real property, including land, facilities, and related personal property from a Federal entity to another Federal entity for subsequent deeding to eligible applicants.
- 21) Actions by the Department of the Treasury to effect fiscal policy and to exercise the borrowing authority of the United States.
- c) The following actions where the emissions are not reasonably foreseeable:

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- 1) Initial Outer Continental Shelf lease sales which are made on a broad scale and are followed by exploration and development plans on a project level.
- 2) Electric power marketing activities that involve the acquisition, sale and transmission of electric energy.
- d) Actions which implement a decision to conduct or carry out a conforming program such as prescribed burning actions which are consistent with a conforming land management plan.
- e) Notwithstanding the other requirements of this Part, a conformity determination is not required for the following Federal actions (or portion thereof):
- 1) The stationing of an action that includes major new or modified stationary sources that require a permit under the new source review (NSR) program (section 173 of the CAA) or the prevention of significant deterioration (PDS) program (title 1, part C of the CAA).
  - 2) Actions in response to emergencies or natural disasters such as hurricanes, earthquakes, etc., which are commenced on the order of hours or days after the emergency or disaster and, if applicable, which meet the requirements of subsection (f) of this Section.
  - 3) Research, investigations, studies, demonstrations, or training (other than those exempted under subsection (b) of this Section), where no environmental detriment is incurred and/or where the particular action furthers air quality research.
  - 4) Alteration and additions of existing structures as specifically required by new or existing applicable environmental legislation or environmental regulations (e.g., hush houses for aircraft engines and scrubbers for air emissions).
  - 5) Direct emissions from remedial and removal actions carried out under CERCLA and associated regulations to the extent such actions either comply with the substantive requirements of the PSD program or are exempted under the provisions of CERCLA and PSD. This includes the implementation of the provisions of CERCLA and applicable regulations issued under CERCLA.
  - f) Federal actions which are part of a continuing response to an emergency or disaster under subsection (e)(2) of this Section and which are to be taken more than 6 months after the commencement of the response to the emergency or disaster under subsection (e)(2) of this Section are exempt from the requirements of this part only if:
    - 1) The Federal agency taking the actions makes a written determination that, for a specified period not to exceed an additional 6 months, it is impractical to prepare the conformity analyses which would otherwise be required and the actions cannot be delayed due to overriding concerns for public health and welfare, national security interests and foreign policy commitments; or
    - 2) For actions which are to be taken after those actions covered by

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subsection (f)(1) of this Section, the Federal agency makes a new determination as provided in subsection (f)(1) of this Section.

g) Notwithstanding other requirements of this Part, actions specified by individual Federal agencies that have met the criteria set forth in either subsection (b)(1)(A) or (B) of this Section and the procedures set forth in subsection (1) of this Section are presumed to conform, except that the Federal agency must demonstrate that the actions are presumed to conform by fulfilling the requirements set forth in either subsection (1) or (2) of this subsection (h):

1) The Federal agency must clearly demonstrate using methods consistent with this Part that the total of direct and indirect emissions from the type of activities which would be presumed to conform would not:

- A) Cause or contribute to any new violation of any standard in any area;
- B) Interfere with provisions in the applicable SIP for maintenance of any standard;
- C) Increase the frequency or severity of any existing violation of any standard in any area; or
- D) Delay timely attainment of any standard or any required interim emission reductions or other milestones in any area in which the applicable SIP proposes or requires further progress:

- i) A demonstration of reasonable further progress;
- ii) A demonstration of attainment; or
- iii) A maintenance plan; or

2) The Federal agency must provide documentation that the total of direct and indirect emissions from such future actions would be below the emission rates for a conformity determination that are established in Section 255.120(b)(1) and (2) of this Part, based, for example, on similar actions taken over recent years.

1) In addition to meeting the criteria for establishing exemptions set forth in subsection (h)(1) or (h)(2) of this Section, the following procedures must also be complied with to presume that activities will conform:

- 1) The Federal agency must identify through publication in the Federal Register a list of proposed activities that are presumed to conform to this Part.
- 2) The Federal agency must notify USEPA Region V Office, local air quality agencies and, where applicable, the agency designated under section 174 of the CAA and the WPO and provide at least 30 days for the public to comment on the list of proposed activities presumed to conform.
- 3) The Federal agency must document its response to all the comments received and make the comments, response, and final list of activities available to the public upon request; and
- 4) The Federal agency must publish the final list of such activities

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in the Federal Register.

j) Notwithstanding the other requirements of this Part, when the total of direct and indirect emissions of any pollutant from a Federal action does not equal or exceed the rates specified in Section 255.120(b)(1) or (2) of this Part, but represents ten percent (.10) or more of a nonattainment or maintenance area's total emissions of that pollutant, the action is presumed to conform to this Part. The Federal agency must demonstrate that the action is presumed to conform by fulfilling the requirements set forth in either subsection (1) or (2) of this subsection (h):

k) Where an action otherwise presumed to conform under subsection (g) of this Section is a regionally significant action or does not in fact meet one of the criteria in subsection (h)(1) of this Section, that action shall not be presumed to conform and the requirements of Sections 255.110 and 255.190 through 255.240 of this Part shall apply for the Federal action.

1) The provisions of this Part shall apply in all nonattainment and maintenance areas.

## Section 255.180 Conformity Analysis

Any Federal department, agency, or instrumentality of the Federal government taking an action subject to the requirements of this Part must make its own conformity determination consistent with the requirements of this Part. In making its determination, the Federal agency must consult with the agency from any interested parties where multiple Federal agencies have jurisdiction for various aspects of a project, a Federal agency may choose to adopt the analysis of another Federal agency or develop its own analysis in order to make its conformity determination.

## Section 255.190 Reporting Requirements

a) A Federal agency making a conformity determination under Section 255.220 of this Part must provide to appropriate USEPA Region V Office, IEPA, local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the CAA, and the WPO a 30 day notice which describes the proposed action and the Federal agency's draft conformity determination on the action.

b) A Federal agency must notify USEPA Region V Office, IEPA, local air quality agencies and, where applicable, affected Federal land managers, the agency designated under section 174 of the CAA and the WPO within 30 days after making a final conformity determination under Section 255.220 of this Part.

## Section 255.200 Public Participation

a) Upon request by any person regarding a specific Federal action, a Federal agency must make available for review its draft conformity

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determination under Section 255.220 of this Part with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

- b) A Federal agency must make public its draft conformity determination under Section 255.220 of this Part by sending a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the NEPA process.
- c) A Federal agency must document its response to all the comments received on its draft conformity determination under Section 255.220 of this Part, and make the comments and responses available, upon request by any person regarding a specific Federal action, within 30 days after the final conformity determination.
- d) A Federal agency must make public its final conformity determination under Section 255.220 of this Part for a Federal action by placing a prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days after the final conformity determination.

## Section 255.210 Frequency of Conformity Determinations

- a) The conformity status of a Federal action shall lapse 5 years from the date a final conformity determination is reported under Section 255.190 of this Part, unless the Federal action has been completed or a continuous program has been commenced to implement that Federal action within a reasonable time.
- b) Ongoing Federal activities at a given site showing continuous progress are not new actions and do not require periodic redeterminations so long as such activities are within the scope of the final conformity determination reported under Section 255.190 of this Part.
- c) If, after the conformity determination is made, the Federal action is judged so that there is an increase in the total of direct and indirect emissions above the levels in Section 255.120(b)(1) and (2) of this Part, a new conformity determination is required.

## Section 255.220 Criteria for Determining Conformity of General Federal Actions

- a) An action required under Section 255.120(b)(1) and (2) of this Part to have a conformity determination for a specific pollutant will be determined to conform to the applicable SIP if, for each pollutant that exceeds the rates in Section 255.120(b)(1) and (2) of this Part, or otherwise requires a conformity determination due to the total of direct and indirect emissions from the action, the action meets the requirements of subsection (c) of this Section, and meets any of the following requirements:

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- 1) For any criteria pollutant, the total of direct and indirect emissions from the action are specifically identified and accounted for in the applicable SIP's attainment or maintenance demonstration;
- 2) For ozone or nitrogen dioxide, the total of direct and indirect emissions from the action are fully offset within the same nonattainment or maintenance area through a revision to the applicable SIP or a similarly enforceable measure that effects emission reductions so that there is no net increase in emissions of that pollutant; pollutant, except ozone and nitrogen dioxide, that is a direct and indirect emissions from the action meets the requirements specified in:
- A) Subsection (b) of this Section, based on areawide air quality modeling analysis and local air quality modeling analysis; or
- B) Subsection (a)(5) of this Section and, for local air quality modeling analysis, the requirement of subsection (b) of this Section;
- 4) For CO or PM-10:
  - A) Where the IPRA advises that an areawide air quality modeling analysis is not needed, the total of direct and indirect emissions from the action meets the requirements specified in subsection (b) of this Section, based on local air quality modeling analysis; or
  - B) Where the IPRA advises that an areawide air quality modeling analysis is appropriate and that a local air quality modeling analysis is needed, the total of direct and indirect emissions from the action meets the requirements specified in subsection (b) of this Section, based on areawide modeling, or meets the requirements of subsection (a)(5) of this Section; or
- 5) For ozone or nitrogen dioxide, and for purposes of subsections (a)(3)(B) and (a)(4)(B) of this Section, each portion of the action or the action as a whole meets any of the following requirements:
  - A) Where USEPA has approved a revision to an area's attainment or maintenance demonstration after 1990 and IPRA makes a determination as provided in subsection (a)(5)(A)(i) of this Section or where the State makes a commitment as provided in subsection (a)(5)(A)(ii) of this Section:
    - 1) The total of direct and indirect emissions from the action (or portion thereof) is determined and documented by IPRA to result in a level of emissions which, together with all other emissions in the nonattainment area, will not exceed the total of direct and indirect emissions budgets specified in the applicable SIP.
    - ii) The total of direct and indirect emissions from the



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action (or portion thereof) is determined by IEPA to be included in the same nonattainment or maintenance area with all other emissions from the nonattainment or maintenance area, would exceed an emissions budget specified in the applicable SIP and the Director of IEPA makes a written commitment to USEPA which includes the following:

a schedule for adoption and submittal of a revision to the SIP which would achieve the needed emission reductions prior to the time emissions from the Federal action would occur;

identification of measures for incorporation into the SIP which would result in a level of emissions which, together with all other emissions in the nonattainment or maintenance area, would not exceed any emissions budget specified in the applicable SIP;

a demonstration that all existing applicable SIP requirements are being implemented in the area for the pollutants affected by the Federal action, and that local authority to implement additional requirements has been fully pursued;

a determination that the responsible Federal agencies have required all reasonable mitigation measures associated with their action; and

written documentation including all air quality analyses supporting the conformity determination;

B) The action (or portion thereof), as determined by the WFO, is specifically included in a current transportation plan and approved by the WFO, and the action is required to conform to the applicable SIP; or

C) The action (or portion thereof) fully offsets its emissions within the same nonattainment or maintenance area through a revision to the applicable SIP or an equally enforceable measure that effects emission reductions equal to or greater than the total of direct and indirect emissions from the action so that there is no net increase in emissions of that pollutant;

D) Where USEPA has not approved a revision to the relevant SIP attainment or maintenance demonstration since 1990, the total of direct and indirect emissions from the action for the future years described in Section 255.230 of this Part) do not increase emissions with respect to the baseline emissions;

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1) The baseline emissions reflect the historical activity levels that occurred in the geographic area affected by the proposed Federal action during:

calendar year 1990;

the calendar year that is the basis for the classification (or, where the classification is based on multiple years, the most representative year), if a classification is promulgated in 40 CFR 81, incorporated by reference in Section 255.160 of this Part; or

the year of the baseline inventory in the PM-10 applicable SIP;

ii) The baseline emissions are the total of direct and indirect emissions calculated for the future years (described in Section 255.230(d) of this Part using the historic activity levels described in subsection (a)(3)(D)(i) of this Section) and appropriate emission factors for future years.

E) Where the action involves additional water and/or wastewater projects, such projects are sized to meet only the needs of population projections that are in the applicable SIP.

b) The airwide and/or local air quality modeling analyses must:

1) Meet the requirements in Section 255.230 of this Part; and

2) Show that the action does not:

A) Cause or contribute to any new violation of any standard in any area; or

B) Increase the frequency or severity of any existing violation of any standard in any area.

c) Notwithstanding any other requirements of this Section, an action subject to this Part may not be determined to conform to the applicable SIP unless the total of direct and indirect emissions from the action is in compliance or consistent with all relevant requirements and emissions contained in the applicable SIP, such as schedules, identification, specified in the State Implementation Plan, demonstration, prohibitions, numerical emission limits, and work practice requirements.

d) Any analyses required under this Section must be completed, and any mitigation requirements necessary for a finding of conformity must be identified, before the determination of conformity is made.

Section 255.230 Procedures for Conformity Determinations of General Federal Actions

a) The analyses required under this Part must be based on the latest



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## planning assumptions.

1) All planning assumptions must be derived from the estimates of population, employment, travel, and congestion most recently approved by the MPO, regional planning commission or other agency authorized to make such estimates, where available.

2) Any revisions to these estimates used as part of the conformity determination, including projected shifts in geographic location or level of population, employment, travel, and congestion, shall be developed in consultation with the regional planning commission, MPO or other agency authorized to make such estimates for the urban area.

b) The analyses required under this Part must be based on the latest and most accurate emission estimation techniques available as described in the Federal Register. Any modification or substitution of such techniques is inappropriate without the approval of the Regional Administrator. If written approval of the Regional Administrator is obtained for any modification or substitution, they may be modified or another technique substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program. Any modification and substitution shall be done in consultation with IEPA and USEPA.

1) For motor vehicle emissions, the most current version of the motor vehicle emissions model specified by USEPA and available for use in the preparation or revision of SIPs in this State must be used for the conformity analysis as specified in subsections (b)(1)(A) and (B) of this Section:

A) The USEPA must publish in the Federal Register a notice of availability of any new motor vehicle emissions model; and

B) A grace period of 3 months shall apply during which the motor vehicle emissions model previously specified by USEPA and available for use in the preparation or revision of SIPs in this State may be used for the analysis was begun during the grace period or no more than 3 years before the Federal Register notice of availability of the latest emission model may continue to use the previous version of the model specified by USEPA.

2) For non-motor vehicle sources, including stationary and area source emissions, the latest emission factors specified by EPA in the "Compilation of Air Pollutant Emission Factors (AP-42)" as incorporated by reference in Section 255.160 of this Part must be used for the conformity analysis unless more accurate emission data are available, such as actual stack test data from stationary sources which are part of the conformity analysis.

c) Any air quality modeling analyses necessary to demonstrate conformity shall be based on the applicable air quality models, data bases, and other requirements specified in the most recent version of the "Guideline on Air Quality Models" adopted by the Federal Register, 51 FR 10331 (March 1986), and Submittal of Implementation Plans, 40 CFR 51.103 (March 1986), as amended (August 1996), incorporated by reference in Section 255.160 of this Part, unless:

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1) The guideline techniques are inappropriate, in which case the model may be modified or another model substituted on a case-by-case basis or, where appropriate, on a generic basis for a specific Federal agency program; and

2) Any modification of substitution shall be done in consultation with USEPA.

d) The analyses required under this Part, except Section 255.220(a)(1) of this Part, must be based on the total of direct and indirect emissions from the action and must reflect emission scenarios that are expected to occur under each of the following cases, if applicable, the farthest 1) the maximum attainment year for which applicable, the farthest 2) the year during which the total of direct and indirect emissions from the action is expected to be the greatest on an annual basis; and

3) Any year for which the applicable SIP specifies an emissions budget.

## Section 255.240 Mitigation of Air Quality Impacts

a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit time lines for implementation. Such measures shall become an integral component of the Federal action being determined to conform. Failure to implement committed mitigation measures will jeopardize the conformity determination and expose the State to enforcement action under the CAA.

b) Prior to determining the Federal action to be taken in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to assure the implementation of any mitigation measures which are identified as conditions for making conformity determinations.

c) Persons or agencies voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments.

d) In instances where the Federal agency is licensing, permitting or otherwise approving the action of another governmental or private entity, approval by the Federal agency must be conditioned on binding the entity to implement the mitigation measures set forth in the conformity determination.

e) When necessary because of changed circumstances, mitigation measures may be modified so long as the new mitigation measures continue to support the conformity determination. Any proposed change in the mitigation measures shall be subject to the reporting requirements of Section 255.190 of this Part. The public participation requirements of Section 255.200 of this Part.

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- 1) Heading of the Part: Real Estate License Act of 1983
- 2) Code Citation: 68 Ill. Adm. Code 1450
- 3) Section Number: Adopted Action:  
1450.1175 Amendment
- 4) Statutory Authority: Implementing the Real Estate License Act of 1983 [225 ILCS 455] and authorized by Section 9 of the Real Estate License Act of 1983 [225 ILCS 455/9].
- 5) Effective Date of Adopted Amendment: March 7, 1997
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) Date Filed in Agency's Principal Office: March 7, 1997
- 9) Date Notice of Proposed Amendments was published in Illinois Register: December 13, 1996, 20 Ill. Reg. 15848
- 10) Has JCAR issued a Statement of Objections to this rule? No
- 11) Differences between Proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were made.
- 13) Will this amendment replace emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and Purpose of Rules: Salespersons and brokers licensed by the Office of Banks and Real Estate (OBRE) under the Real Estate License Act of 1983 are required to fulfill continuing education (CE) requirements as a prerequisite for license renewal. With over 77,000 licensees, monitoring compliance with CE requirements has been a difficult task. In a comprehensive manner, this rulemaking will implement a new CE system, an improved system for CE compliance review based upon upgraded computer capabilities, creation of an in-house database of continuing education records for all licensees, and expanded procedures governing the treatment of licensees in non-compliance. The proposed rules have been approved and recommended by the Illinois Real Estate Education and Administration Board and have been endorsed by the Illinois Association of Realtors.

The CE database will be created from information provided on monthly "graduate reports" submitted by CE course sponsors (currently 67 are

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licensed by OBRE). The information -- licensee names, course titles and dates, etc. -- is data that sponsors are already required to retain. It is hoped that sponsors will submit data on computer disks, but reports may be submitted on paper as well (a small fee will be charged to offset data entry costs and encourage computerized reporting). There will be an administrative fee for late reporting. Continued failure to report by sponsors could eventually lead to a sponsor's courses being disqualified for continuing education purposes.

The rulemaking also expands upon the procedures applicable to licensees found to be in non-compliance on CE. Such licensees will be given the opportunity to prove that they are in fact in compliance and given an opportunity to correct deficiencies by taking courses during a 60 day notice period but, failing in that, the licensees will be referred for disciplinary proceedings which could ultimately lead to suspension or revocation of license.

- 16) Information and questions regarding these Adopted Amendments shall be directed to:

John Arthur  
Legislative Liaison  
Office of Banks and Real Estate  
500 East Monroe, Suite 1400  
Springfield, Illinois 62701  
217/782-3000 fax: 217/524-5941

The full text of the Adopted Amendments begins on the next page:

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## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VIII: OFFICE

## OF BANKS AND REAL ESTATE

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1450

## REAL ESTATE LICENSE ACT OF 1983

## SUBPART A: GENERAL RULES

Section 1450.10 Definitions  
 1450.11 Educational Requirement of Broker Applicant Licensed as an Illinois Real Estate Salesperson (Renumbered)  
 1450.12 Educational Requirements for a Baccalaureate Degree with a Minor in Coursework in Real Estate (Renumbered)

1450.15 Salesperson and Broker Examinations

1450.17 Applications for Salespersons and Brokers Licenses by Examination

1450.18 Sponsor Card

1450.19 Inoperative Salespersons and Brokers Licenses

1450.20 Managing Broker Responsibilities

1450.21 Branch Offices

1450.22 Special Agents and Partnerships

1450.40 Special Accounts (Escrow Accounts)

1450.45 Fees

1450.50 Disclosure

1450.55 Agency Disclosure Pursuant to Section 18.2 of the Act

1450.60 Employment Contracts

1450.70 Listing Agreements

1450.80 Written Agreements

1450.90 Advertising

1450.95 Unlicensed Assistants

1450.100 Discrimination

1450.110 Unworthiness or Incompetence to Act as a Broker or Salesperson

1450.120 Hearings

1450.140 Assumed Name

1450.150 Reciprocal Licensure

1450.170 Rental Finding Services

1450.180 Continuing Education

1450.185 Granting Variances

1450.185 Procedure to Contest An Automatic Termination

1450.190 Penalties for Criminal Acts

1450.200 Real Estate Recovery Fund

## SUBPART B: SCHOOL RULES

Section

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## 1450.210 Approval of Schools (Repealed)

## 1450.215 Home Study/Correspondence Programs

## 1450.220 Definition of Class Hour and Credit Hour (Repealed)

## 1450.230 Educational Requirement of Broker Applicant who is a Licensed Illinois Real Estate Salesperson (Renumbered)

## 1450.240 Class Attendance Requirements

## 1450.250 Requirements for Minor in Real Estate (Renumbered)

## 1450.260 Location of Applicants Under 21 Years of Age (Repealed)

## 1450.270 Educational Requirements for Reinstatement of License (Repealed)

## 1450.275 Recruitment at Test Center

## 1450.280 Approval of Schools

## 1450.290 Withdrawal of Approval

## APPENDIX A Penalties for Criminal Acts (Repealed)

AUTHORITY: Subpart A implementing Sections 9 and 15 of the Real Estate License Act of 1983 [225 ILCS 455/9 and 15], and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)]; Subpart B implementing Sections 4(17) and 11 of the Real Estate License Act of 1983 [225 ILCS 445/4(17) and 11] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 23, 1974, and Illinois Reg. 895, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 15003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified in Chapter VII, Department of Professional Regulation, effective January 1, 1997; amended at 20 Ill. Reg. 11984, pursuant to P.A. 89-508, effective January 1, 1997; amended at 20 Ill. Reg. 11984, pursuant to P.A. 89-508, effective January 1, 1997; amended at 21 Ill. Reg. 11984, effective January 1, 1997.

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SUBPART A: GENERAL RULES

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## Section 1450.175 Continuing Education

- a) Continuing Education Hour Requirements
  - 1) Pursuant to Article 3 of the Act, beginning with the March 31, 1993, renewal of licensure for salespersons and the January 31, 1994, renewal of licensure for brokers, and every renewal thereafter, each licensee who is required to comply with continuing education (CE) shall complete during each pre-renewal period a minimum of 12 hours of CE that is relevant to the practice of real estate as set forth in subsection (b)(3) below ("relevant" as approved by the Real Estate Education Advisory Council ("REAC").
  - 2) For salespersons, a pre-renewal period is the 24 months preceding March 31 of the year of the renewal. For brokers, a pre-renewal period is the 24 months preceding January 31 of the year of the renewal.
  - 3) Pursuant to Section 37.1 of the Act, CE requirements apply only to those licensees who obtained initial licensure in Illinois on or after January 1, 1977. Individuals licensed in Illinois prior to January 1, 1977, either as salespersons or brokers, are exempt from the CE requirements. Continuous licensure is not required to be eligible for this exemption. However, if a licensee has been nonrenewed for a period of 5 years or more, the date of initial licensure, for purposes of this Section, shall be the date of licensure after that nonrenewed period.
  - 4) A renewal applicant is not required to comply with the CE requirements for the first renewal period following the original issuance of the license, either for the salesperson or broker.
  - 5) Salespersons and brokers licensed in Illinois but residing and practicing in other States shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 37.1 of the Act or subsections (a)(3) and (4) above.
  - 6) The Office of Banks and Real Estate shall conduct random audits to verify compliance with this Section.
- b) Approved Continuing Education
  - 1) CE credit may be earned for verified attendance at or participation in a course which is offered by an approved CE sponsor who meets the requirements set forth in subsection (c) below.
  - 2) CE credit may also be earned for completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c) below.
  - 3) Pursuant to Section 37.4 of the Act, the CE requirement shall be satisfied by successful completion of a self-study course in any one or more of the following mandatory courses:
    - i) License law and escrow;
    - ii) Anti-trust;

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- iii) Fair housing; and
  - iv) Agency.
  - B) Elective category. A maximum of 6 hours of CE in the following elective courses:
    - i) Appraisal;
    - ii) Property management;
    - iii) Residential brokerage;
    - iv) Farm property management;
    - v) High net worth clients of sellers, buyers and brokers;
    - vi) Commercial brokerage and leasing;
    - vii) Financing; and
    - viii) Other CE courses approved by the Advisory Council (e.g., real estate tax law).
  - 4) Pursuant to Section 37.3(b) of the Act, one hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (b)(6) below.
  - 5) Each CE course shall include one or more subjects from the mandatory category or elective category set forth in subsection (b)(3)(A) or (b)(3)(B), where the individual is in actual attendance, or participates in, or completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics in the mandatory or elective category. In no case shall a CE course be offered in the mandatory or elective category without the same certificate of completion. The number of hours earned from each CE course and identify whether the completed course was from the mandatory or elective category.
  - 6) Each CE course shall include the successful completion of an examination which measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.
- A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.
- B) All examinations, including self-study examinations and recertification examinations, shall be proctored by a representative of the sponsor and shall be graded by the sponsor. No questions for a three-hour increment of CE earned. No course material, notes, or other aides shall be referred to during the examination by the student with the exception of amortization tables, tax tables and calculators.
- C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The sponsor shall

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allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.

- 7) Self-study CE shall comply with all of the requirements of this Section, except that:
  - A) Verified attendance is only required for taking the course.
  - B) Classroom instruction is not required for self-study CE, as the intent is for the licensee to review and learn the material on their own.
  - C) Acceptable self-study materials include, but are not limited to, reading material and audio/video cassettes.
  - D) The examination site for self-study CE shall be determined by the sponsor, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.
- 8) All CE courses shall:
  - A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;
  - B) Provide experiences (e.g., role playing, lectures, films) which contain subject matter and course materials relevant to the set forth in Section 37.4 of the Act; and
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.
- 9) Nothing shall prohibit a sponsor and its instructors from utilizing audio-visual aides or satellite communications with two-way voice interaction in assisting in the presentation of CE courses.
- 10) Pursuant to Section 37.4, a maximum of 6 hours of CE credit per pre renewal period may be earned by an approved instructor for teaching an approved CE course or pre-licensure course. One hour of teaching is equal to one hour of CE.
- 11) As provided for in Section 37 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a \$25 processing fee within 90 days after completion of the CE course prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided by the sponsor and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a closed book, proctored examination. In determining whether the sponsor and CE course are substantially equivalent, the Advisory Council shall

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use the criteria in Article III of the Act and this Section.

- 12) CE credit shall not be given for CE courses taken in Illinois from sponsors not pre-approved by the Office of Banks and Real Estate.
- c) Continuing Education Sponsors and Courses
  - 1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, real estate school approved under Article I of the Act, or any other group which has been approved and authorized by the Office of Banks and Real Estate upon the recommendation of the Advisory Council to coordinate and present CE courses.
  - 2) Those entities seeking approval as CE sponsors shall maintain an office for maintenance of all records, office equipment and office space necessary for customer service.
    - A) The CE sponsor's office may be subject to inspection by authorized representatives of the Office of Banks and Real Estate. Regular working hours when the Office of Banks and Real Estate staffs are present shall be observed. There shall be full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.
    - B) The Office of Banks and Real Estate shall, upon an on-site inspection of an out-of-state sponsor, be reimbursed by the sponsor for all expenses incurred by the inspector in the course of the inspection.
  - 3) Entities seeking approval as CE sponsors shall file a sponsor application, on forms provided by the Office of Banks and Real Estate, along with the required fee set forth in Section 37.5 of the Act. The application shall include the following:
    - A) A list of all CE courses that the sponsor is planning to offer during the 12 month period following approval;
    - B) The description, location, date and time of each CE course to be offered;
    - C) A list of all instructors the sponsor plans to utilize in the offering of CE courses. Such list shall include the instructor's name, address and approval number;
    - D) A copy of a certificate of attendance planned to be used which meets the requirements set forth in Section 37.5 of the Act;
    - E) As provided in Section 37.5(m) of the Act, an approved sponsor shall not be precluded from offering CE courses or from utilizing instructors not listed in the initial application or subsequent annual renewals if written notice of the CE course and the instructor to be utilized is submitted 30 days prior to the CE course date pursuant to subsection (c)(3)(F)(v) below;
    - F) The sponsor's certification of the application-the sponsor shall certify to the following:
      - 1) That the content areas of all CE courses offered by

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the sponsor for CE credit will conform to those listed in Section 37.5(a) and (b) of the Act and that CE sponsor shall offer for approval all CE courses of the courses set forth in Section 37.5 of the Act;

ii) That all CE courses offered by the sponsor for CE

credit will comply with the criteria in this Section; iii) That the sponsor shall be responsible for verifying attendance at each CE course and provide a certificate of completion signed by the sponsor which meets the requirements of Section 37.5 of the Act. The sponsor shall maintain these records for not less than 5 years and shall make these records available for inspection by the licensee or the Office of Banks and Real Estate or its designee during regular business hours;

iv) That upon request by the Office of Banks and Real Estate, the sponsor will submit such evidence as is necessary to establish compliance with this Section and Section 37.5 of the Act. Such evidence shall be submitted to the Office of Banks and Real Estate has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

v) That each sponsor shall submit to the Office of Banks and Real Estate a written notice of a CE course 30 days prior to the CE course date if such program was not listed in the application or any subsequent renewal application. The notice shall include the description, location date and time of the CE course to be offered;

vi) That the sponsors shall only offer CE in an environment which is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendee(s). This does not apply to self-study CE courses; and

vii) That the sponsor shall be responsible for and maintain its office in accordance with the requirements of the Act and shall be responsible for ensuring that the sponsor to comply with Article III of the Act. This Section and this Part, documented by a current balance sheet, an income statement or any such similar evidence as requested by the Office of Banks and Real Estate.

4) Real estate schools approved to offer the courses required by Article I of the Act shall be deemed to be approved to offer CE programs upon completion of an application for approval and the submission of the \$2,000 fee required by Section 37.5 of the Act. Any college or university exempt from paying a fee for school approval under Article I of the Act is also exempt from paying the fee to become an approved continuing education sponsor under

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Article III of the Act. the action by the Advisory Council, the sponsor shall submit such evidence as is necessary to establish compliance with this Section and Section 37.5 of the Act. Such evidence shall be submitted to the Office of Banks and Real Estate has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

5) Within 30 days after the action by the Advisory Council, the sponsor shall submit such evidence as is necessary to establish compliance with this Section and Section 37.5 of the Act. Such evidence shall be submitted to the Office of Banks and Real Estate has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

6) Approved CE sponsors shall comply with the following:

A) No approved sponsor shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit new affiliates for any company. Sponsors and instructors shall report to the Office of Banks and Real Estate any efforts to recruit licensees.

B) No approved sponsor shall advertise that it is endorsed, recommended, or accredited by the Office of Banks and Real Estate. Such sponsor, however, may indicate that the sponsor and the CE course have been approved by the Office of Banks and Real Estate.

C) Approved sponsors shall utilize in the teaching of approved CE courses only instructors who have been approved by the Office of Banks and Real Estate. In any advertising promoting approved CE courses, the number of CE hours that may be credited toward Illinois CE requirements for license renewal.

D) Further, approved sponsors shall specify the number of mandatory and elective CE course hours that may be earned as set forth in subsections (b)(3)(A) and (b)(3)(B) above.

E) All CE courses given by approved sponsors shall be open to all licensees and not be limited to members of a single organization or group.

7) The sponsor shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved in accordance with Section 37.5 of the Act.

8) To maintain approved sponsor status, each sponsor shall submit annually during the 30 days preceding April 1st, a sponsor renewal application on a form provided by the Office of Banks and Real Estate. The sponsor shall be required to submit to the Office of Banks and Real Estate with the renewal application the following:

A) A list of those CE courses planned to be offered in the 12-month period immediately following the renewal period. This list shall include a description, location, date and time the course is planned to be offered.

B) A list of those instructors the sponsor plans to utilize. This list shall include the name, address, and instructor approval number for each.

9) Each approved CE sponsor shall submit to the Office of Banks and Real Estate on or before the 15th of each month a graduation



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report of those licensees passing approved CE courses under its sponsorship during the preceding calendar month.

A) The monthly graduation reports shall include the following information for each licensee:

- i) The licensee's name, address, social security number, and license number;
- ii) The CE course sponsor's name and license number; and
- iii) Course category (mandatory or elective), credit hours, and the date and time classes were held.

B) If no courses were given by a CE sponsor during the preceding calendar month, that CE sponsor shall report in writing that no courses were given.

C) The monthly graduation reports shall be submitted on computer or paper media in a format specified by the Office of Banks and Real Estate.

D) There is no processing fee for a monthly graduation report submitted on computer media specified by the Office of Banks and Real Estate or for a written report submitted pursuant to subsection (c)(9)(B) of this Section. Each monthly graduation report submitted on paper or in a format other than that specified by the Office of Banks and Real Estate shall be accompanied by a processing fee of \$30 per report. The fee shall be paid by check or money order payable to the Office of Banks and Real Estate.

E) A monthly graduation report received by the Office of Banks and Real Estate with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of \$200 in addition to the fees set forth above.

F) If a sponsor of CE courses fails to file monthly graduation reports, or fails to pay required fees, if any, as set forth in subsections (c)(9)(D) and (E) of this Section for three successive months, then the courses offered by that sponsor may be disqualified pursuant to procedures set forth in Section 37.5(k) of the Act until such time as all delinquent graduation reports, processing fees, and administrative fees as set forth in subsections (c)(9)(D) and (E) of this Section have been submitted to and are received by the Office of Banks and Real Estate. The Office of Banks and Real Estate shall notify the sponsor of delinquency before the Education Advisory Council meets for the next disqualification pursuant to Section 37.5(k) by certified mail, return receipt requested.

d) Continuing Education Instructors

1) An applicant seeking approval from the Office of Banks and Real Estate to become an approved CE instructor shall submit a completed application, on forms provided by the Office of Banks

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and Real Estate, along with the fee as provided for in Section 37.5 of the Act.

2) An individual applying to become an approved CE instructor shall meet the following criteria, as provided for in Section 37.5(i) of the Act:

- A) Has held a real estate brokers license for at least the last three years and has been engaged in active practice as a real estate broker; or
- B) Is currently admitted to practice law and for three years has been engaged in real estate related work as part of his/her active practice of law or has taught pre-licensure real estate courses; or
- C) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least three years; or as evidenced by a professional designation, such as but not limited to a designated real estate instructor (DREI); or approved by a college or university's governing body to teach in a real estate degree program; or
- D) Is properly licensed or certified to engage in the business of appraising real estate (or related real estate occupations including real estate salespersons) and for at least three years has been engaged in such practice; or
- E) Is qualified by experience or education, or both, to teach CE pursuant to the provisions of this Section. In determining whether a person is qualified to teach CE under this Section, the Director of Real Estate shall consider the following:

- i) The individual's teaching experience;
  - ii) The individual's real estate experience;
  - iii) Any real estate, business or legal education of the individual; and
  - iv) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out of state).
- F) Any applicant who the Director has determined does not meet the requirements of this subsection (d)(2)(E) shall be evaluated by the Advisory Council. The Advisory Council shall evaluate the application and make a recommendation to the Commissioner for approval or disapproval of the applicant as a CE instructor. The Office of Banks and Real Estate shall issue approval to the applicant or notify the applicant in writing why approval cannot be issued.

3) Instructors approved to teach salesperson and broker pre-licensure courses, pursuant to Section 1450.280 of this Part, are deemed

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approved as CE instructors as long as they maintain their approval under Section 1450.280 of this Part, submit an application to the Office of Banks and Real Estate for approval and pay the fee as provided for in Section 37.5 of the Act.

- 4) Within 30 days after receipt of an application, the Office of Banks and Real Estate shall issue approval to the applicant or notify such applicant in writing why approval cannot be issued.
- 5) To maintain approved status, CE instructors shall submit annually during the 30 days preceding April 1 an instructor renewal application, on forms provided by the Office of Banks and Real Estate, along with the fee as provided for in Section 37.5 of the Act.

## e) Withdrawal of Approval

- 1) Upon written recommendation of the Advisory Council, the Office of Banks and Real Estate shall withdraw, suspend or place on probation the approval of an approved CE sponsor or an approved CE instructor when, at any time, the quality of the CE fails to meet the established criteria as set forth in this Section and Article III of the Act or if sponsorship or instructor approval was based upon false or deceptive information or if any other related license of the sponsor or instructor is suspended, revoked or otherwise disciplined.

- 2) If the Office of Banks and Real Estate or Advisory Council has reason to believe there has been fraud, dishonesty, or lack of integrity in the furnishing of any documentation for the evaluation of a sponsor or instructor, it shall refer such matter to the appropriate Person for investigation and any disciplinary action which may be appropriate under the Act in accordance with 68 Ill. Adm. Code 1110.

## f) Certification of Compliance with CE Requirements

- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b) above.

- 2) The Office of Banks and Real Estate may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). Such evidence shall be required in the context of the Office of Banks and Real Estate's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance.

- 3) In the context of an audit, the Office of Banks and Real Estate shall accept verification (e.g., original transcript, certificates) submitted directly from the sponsor on behalf of the renewal applicant as proof of CE completed.

- 4) Whenever the Office of Banks and Real Estate determines that a licensee has been deficient in complying there-to-be-a-lack-of-compliance with CE requirements, an applicant will be notified and may request an interview with the Disciplinary Board. At that time the Board may

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recommend-that-steps-be-taken-to-begin-formal-disciplinary proceedings-as-required-by-Section-14-65-of-the-Act  
 Administrative-Procedure-Act-is-14-65-10-10-65-of-the-Office of Banks and Real Estate will notify the licensee, and the managing Broker or firm of the licensee, by certified mail, return receipt requested, of such possible deficiency. The licensee shall have 60 days from the date such deficiency notification is received to submit to the Office of Banks and Real Estate evidence of compliance with CE requirements.

- A) If satisfactory evidence of compliance with CE requirement (as set forth in subsections (f)(2) and (3) of this Section) is submitted, the Office of Banks and Real Estate shall notify the licensee, and the managing Broker or firm of the licensee, by first class mail, that the licensee is in compliance.

- B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (f)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made such certification, the licensee may during the 60 days notice period submit evidence of having attained compliance with CE requirements after the date such certification was made. The submission of evidence of completion must be accompanied by a non-refundable administrative fee of \$75 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee is not remitted in the submission of the evidence. If the evidence is found to be satisfactory, the Office of Banks and Real Estate shall notify the licensee and the managing Broker or firm of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

- C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, such failure shall be evidence of a violation of Section 18(a) of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 3 of the Act. The Office of Banks and Real Estate shall send notice pursuant to Section 20 of the Act regarding requirements of disciplinary hearing and begin the disciplinary process. A copy of this notice shall be sent to the managing Broker or firm of the licensee.

- g) Waiver of CE Requirements

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- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Office of Banks and Real Estate a renewal application along with a \$25 waiver processing fee and the renewal fee as provided by Section 15 of the Act.
- 2) Pursuant to Section 37.8(c) of the Act, to be granted an interview before the Advisory Council with respect to a request for waiver, the interview must occur within the time the request is received. For the renewal applicant shall be given at least 20 days written notice of the date, time and place of such interview by certified mail, return receipt requested.
- 3) CE requirements shall automatically be waived for those person listed as exempt pursuant to Section 37.1 of the Act and subsections (a)(3) and (a)(4) of this Section above.

(Source: Amended at 21 Ill. Reg. **3602**, effective 1/1/77.)

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- 1) Heading of the Part: Petroleum Underground Storage Tanks

- 2) Code Citation: 35 Ill. Adm. Code 732

Section Number:	Adopted Action:
732.100	Amended
732.101	Amended
732.102	Amended
732.103	Amended
732.104	Amended
732.202	Amended
732.203	Amended
732.300	Amended
732.302	Amended
732.303	Amended
732.304	Amended
732.305	Amended
732.306	Amended
732.307	Amended
732.308	Amended
732.309	Amended
732.310	Amended
732.311	Amended
732.312	New
732.400	Amended
732.401	Amended
732.402	Amended
732.403	Amended
732.404	Amended
732.405	Amended
732.406	Amended
732.407	Amended
732.408	Amended
732.409	Amended
732.410	Repealed
732.501	Amended
732.502	Amended
732.503	Amended
732.601	Amended
732.602	Amended
732.603	Amended
732.604	Amended
732.605	Amended
732.606	Amended
732.608	Amended
732.612	Amended
732.700	New
732.701	New
732.702	New
732.703	New

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- 732.704 New
732. Appendix B Amended
732. TABLE A Repealed
732. TABLE B Repealed
732. TABLE C Repealed
732. TABLE D Repealed
732. ILLUSTRATION A Repealed
732. ILLUSTRATION B Repealed
732. ILLUSTRATION C Repealed
732. ILLUSTRATION D Repealed
732. Appendix C New
- 4) Statutory Authority: 415 ILCS 5/27
- 5) Effective Date of Amendments: July 1, 1997
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Does this amendment contain incorporation by reference? Yes. No approval from JCRR was necessary as all the incorporations are pursuant to Section 6.02(a) of the Illinois Administrative Procedure Act.
- 8) Date Filed in Agency's Principal Office: March 6, 1997
- 9) Notice(s) of Proposal Published in Illinois Register: 20 Ill. Reg. 13806, October 25, 1996
- 10) Has JCRR issued a Statement of Objections to these Amendments? No
- 11) Difference(s) between proposal and final version:
- In Section 732.100 inserted the following:
- "5) Any wastewater treatment tank system that is part of a wastewater treatment facility required under Section 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq. (1972)).
- 6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.) or a mixture of such hazardous waste or other regulated substances."
- In Section 732.103, the definition of "free product", before the parenthesis added: "for chemicals whose melting point is less than 30°C"
- In Section 732.203(d) deleted: "in accordance with regulations promulgated by the OSPW."
- In Section 732.300(a), deleted "may" and added "shall".

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- In Section 732.300(b)(1)(A), deleted "affected" and added "impacted"; also inserted after "above the water table" the phrase "and below the water table"; inserted after "the following" the phrase "in accordance with the TIER I residential numbers set forth in 35 Ill. Adm. Code 742.A(Appendix B)".
- In Section 732.300(b)(1)(B), after "Free product" and before "is" inserted "that may impact groundwater".
- In Section 732.302(a)(4), deleted "site" and added "UST system".
- In Section 732.302(b), inserted "applicable" before the following: "Tier I residential".
- In Section 732.302(b), after "objectives" insert "(set forth in 35 Ill. Adm. Code 742.A(Appendix B))".
- In Section 732.303(d), deleted "site" and added "UST system".
- In Section 732.304(d), deleted "site" and added "UST system".
- In Section 732.306(b)(2), added after "pathways" the following: "following the investigation of migration pathways requirements of Section 732.307(g)".
- In Section 732.307(c)(2), the language was amended to read:
- The following tests shall be performed on a representative sample of each of the stratigraphic units unit encountered at-the-site in the native soil boring which has been determined most conducive to transporting contaminants from the source based on site factors including but not limited to visual and tactile observations, the classification of the soil, and prior evaluation of the site strata; the volume of the release, the size or extent of the release, the size or extent of the unit, and the requirements of ASTM D 2489-93. Standard Practice for Description and Identification of Soils (Visual, Manual Procedure) approved September 15, 1991.
- In Section 732.307(d)(2), the language was amended to read:
- The following tests shall be performed on a representative sample of each of the stratigraphic units unit encountered in the native soil boring which has been determined most conducive to transporting contaminants from the source based on site factors including but not limited to visual and tactile observations, the classification of the soil, and prior evaluation of the site strata; the volume of the release, the size or extent of the unit, and the requirements of ASTM D 2489-93. Standard Practice for Description and Identification of Soils (Visual, Manual Procedure) approved September 15, 1991.

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In Section 732.307(3), added at the beginning: "For sites at which such investigation is required pursuant to this Part, the" and deleted "The".

In Section 732.307(3)(1), after "Investigation" added "as required under this Part".

In Section 732.307(3)(1), deleted "excavation" and added "UST system".

In Section 732.308(a)(2)(C), inserted:

"D) The reasoning behind the Licensed Professional Engineer's decision to perform or not perform soil testing pursuant to Section 732.307(c)(2) and (d)(2) of this Part as to each identified strategic unit."

In Section 732.310(g)(2), deleted "(a)" and inserted "(g)(1)"; also deleted "cleanup" and added "remediation"; also deleted "or as determined by the Agency".

In Section 732.310(g)(3), deleted "cleanup" and added "remediation".

In Section 732.312(a)(1), added at the end "The election may be made at any time until the Agency issues a No Further Remediation Letter."

In Section 732.312, the Board note, added after "reimbursement.", the following:

"Furthermore, owners or operators may only be reimbursed for one method of site classification."

In Section 732.403(d), deleted "plant" and replaced with "plan".

In Section 732.403(i), inserted at the beginning "As a result of the demonstrations under Section 732.307(i)(6), the" and deleted "The". Also deleted "as a result of a demonstration approved by the Agency under Section 732.307(j)(6), shall evaluate the potential for exceedence of applicable indicator contaminant objectives to occur during the succeeding three years".

In Section 732.403(i)(1), deleted "Following completion of the site specific evaluation, the owner or operator shall" and inserted "Shall".

In Section 732.404(b)(3)(A)(1), deleted "physical barrier" and inserted "specific sampling point agreed to by the Agency".

In Section 732.406(b)(2), added after "pathways" the following: "Following the investigation of migration pathways requirements of Section 732.307(g)."

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In Section 732.503(f), added:

"If any plan of report is rejected by operation of law, in lieu of an immediate appeal to the Board the owner or operator may either submit the plan or report to the Agency or file a joint request for a 90-day extension of the manner provided for extensions of permit decision in Section 40 of the Act."

At the end of Section 732.701(c), added:

"If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate appeal to the Board the owner or operator may either submit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act."

In Section 732.703(b), after "certified", inserted "or otherwise accurate and official".

In Section 732.704(a)(4) was reworded to read:

4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based which:

A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

B) results in the following:

i) the site no longer satisfies the criteria of a No Further Action site classification.

ii) the site no longer satisfies the criteria of a Low Priority site classification.

iii) failing to meet the remedial objectives established for a High Priority site, and

C) pose a threat to human health or the environment;

In Section 732.704(a)(5), added "; or" at the end and deleted the period.

12) Have all the changes agreed upon by the Agency and JCNR been made as indicated in the agreement letter issued by JCNR? Yes

13) With this amendment replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: For more specific information regarding this rule please see the Board's March 6, 1997 final opinion and

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order which is available from the address below. On September 16, 1996 the Illinois Environmental Protection Agency (Agency) filed this proposal to amend the Board's existing Underground Storage Tank (UST) rules as required by P.A. 89-457, signed and effective May 22, 1996. P.A. 89-457 requires that the Board complete its rulemaking on or before March 15, 1997. The intent of the proposal is to effectuate changes for three reasons: (1) to make the UST program consistent with specified federal requirements; (2) to clarify issues which have arisen since initial implementation of this Part; and (3) to address issues unresolved in the predecessor R94-2(8) docket, such as determining risk-based remediation objectives and site classification. Specifically, this proposed rule includes general changes throughout Part 732 including adopting references to Part 742 for use in developing remedial objectives. In addition, the Board has added a new definition for "stratigraphic unit" and provisions for testing to be done on stratigraphic units, as well as requiring a Licensed Professional Engineer to identify and test for the presence of petroleum hydrocarbons in a stratigraphic unit. The Board also has added provisions for appeal periods have been clarified throughout the Board's rule. Alternative methods for soil testing and site classification have been added along with clarifications on hydraulic conductivity and yield. The rule also includes changes in groundwater monitoring including placement of wells and allowing reclassification at any time prior to the submission of a Low Priority completion report. The Board has also clarified the standards for when a No Further Remediation Letter may be revoked. The rule includes clarification regarding payments and what constitutes reasonable costs and early action. Finally, these rules are given an effective date of July 1, 1997.

- 16) Information and questions regarding this adopted rule shall be directed to: Written comments concerning this rulemaking should reference R97-10 and be sent to:

Dorothy Gunn  
Clerk of the Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601  
(312)814-6931

Questions regarding these adopted amendments may be addressed to: Marie E. Tipton, Attorney Assistant, Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, IL 60601, (312)814-4925.

The full text of the adopted Amendment(s) begins on the following page:

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TITLE 35. ENVIRONMENTAL PROTECTION  
SUBTITLE G. WASTE DISPOSAL  
CHAPTER 1. POLLUTION CONTROL BOARD  
SUBCHAPTER d. UNDERGROUND INJECTION CONTROL  
AND UNDERGROUND STORAGE TANK PROGRAMS  
PART 732  
PETROLEUM UNDERGROUND STORAGE TANKS  
SUBPART A: GENERAL

Section	Applicability
732.100	Election to Proceed under Part 732
732.101	Severability
732.102	Definitions
732.103	Incorporations by Reference
732.104	Agency Authority to Initiate Investigative, Preventive or Corrective Action
732.105	
732.200	General
732.201	Agency Authority to Initiate
732.202	Early Action
732.203	Free Product Removal
732.204	Application for Payment

## SUBPART C: SITE EVALUATION AND CLASSIFICATION

Section	Applicability
732.300	General
732.301	Agency Authority to Initiate
732.302	No Remediation Sites
732.303	Low Priority Sites
732.304	High Priority Sites
732.305	Plan Submittal and Review
732.306	Deferred Site Classification; Priority List for Payment
732.307	Site Evaluation
732.308	Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells
732.309	Site Classification Completion Report
732.310	Indicator Contaminants
732.311	Indicator Contaminant Groundwater Objectives
732.312	Classification by Exposure Pathway Exclusion

## SUBPART D: CORRECTIVE ACTION

732.400	General
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732-401 Agency Authority to Initiate  
 732-402 "No Further Action" Site  
 732-403 Priority-1 Site  
 732-404 Priority-2 Site  
 732-405 Deferred Corrective Action; Priority List for Payment  
 732-406 Deferred Corrective Action; Priority List for Payment  
 732-407 Alternative Remediation Objectives  
 732-408 Risk-Based Remediation Objectives  
 732-409 Groundwater Monitoring and Corrective Action Completion Reports  
 732-410 "No Further Remediation" Letter (Repealed)

## SUBPART E: SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

732-500 General  
 732-501 Submittal of Plans or Reports  
 732-502 Completeness Review  
 732-503 Full Review of Plans or Reports  
 732-504 Selection of Plans or Reports for Full Review  
 732-505 Standards for Review of Plans or Reports

## SUBPART F: PAYMENT OR REIMBURSEMENT

732-600 General  
 732-601 Applications for Payment  
 732-602 Review of Applications for Payment  
 732-603 Authorization for Payment; Priority List  
 732-604 Limitations on Total Payments  
 732-605 Eligible Costs  
 732-606 Ineligible Costs  
 732-607 Payment for Handling Charges  
 732-608 Apportionment of Costs  
 732-609 Subrogation of Rights  
 732-610 Indemnification  
 732-611 Costs Covered by Insurance, Agreement or Court Order  
 732-612 Determination and Collection of Excess Payments

## SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

732-700 General  
 732-701 Issuance of a No Further Remediation Letter  
 732-702 Contents of a No Further Remediation Letter  
 732-703 Duty to Record a No Further Remediation Letter  
 732-704 Voidance of a No Further Remediation Letter  
 APPENDIX A Indicator Contaminants  
 APPENDIX B Additional Parameters  
 Objectives: Acceptable Detection Limits (ADLs) and Soil Remediation Methodology

TABLE A Groundwater and Soil Remediation Objectives (Repealed)

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TABLE B Soil Remediation Methodology: Model Parameter Values (Repealed)  
 TABLE C Soil Remediation Methodology: Chemical Specific Parameters (Repealed)  
 TABLE D Soil Remediation Methodology: Objectives (Repealed)  
 ILLUSTRATION A Equation for Groundwater Transport (Repealed)  
 ILLUSTRATION B Equation for Soil-Groundwater Relationship (Repealed)  
 ILLUSTRATION C Equation for Calculating Groundwater Objectives at the Source (Repealed)  
 ILLUSTRATION D Equation for Calculating Soil Objectives at the Source (Repealed)  
 APPENDIX C Backfill Volumes

AUTHORITY: Implementing Sections 22.12 and 57 - 57.17 and authorized by Section 57.14 of the Environmental Protection Act (415 ILCS 5/22.12 and 57 - 57.17 and 57.14).

SOURCE: Adopted in R94-2 at 18 Ill. Reg. 15008, effective September 23, 1994; amended in R97-10 at 21 Ill. Reg. ~~361~~ <sup>361</sup>, effective 11/1/97.

NOTE: In this Part, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

## SUBPART A: GENERAL

## Section 732.100 Applicability

a) This Part applies to owners or operators of any underground storage tank system used to contain petroleum and for which a release has been confirmed and required to be reported to Illinois Emergency Management Agency (IEMA) on or after September 23, 1994 in accordance with regulations adopted by the Office of State Fire Marshal (OSFM). It does not apply to owners or operators of sites for which the OSFM does not require a report to IEMA or for which the OSFM has issued or intends to issue a certificate of removal or abandonment pursuant to Section 57.5 of the Environmental Protection Act (Act) (415 ILCS 5/57.5). Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.

b) Upon the receipt of a corrective action order from the OSFM pursuant to section 57.5(g) of the Act, where the OSFM has determined that a release poses a threat to human health or the environment, the owner or operator of any underground storage tank system used to contain petroleum and for which a release was reported to IEMA on or before September 12, 1993, may elect to proceed in accordance with this Part pursuant to Section 732.101.

Underground storage tank systems used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit shall conduct corrective action

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in accordance with this Part.

- c) Owners or operators subject to this Part by law or by election shall proceed expeditiously to comply with all requirements of the Act and the regulations and to obtain the No Further Remediation Letter and the Permit-to-Remediate Letter signifying final disposition of the site for purposes of this Part. The Agency may use its authority pursuant to the Act and Section 732.105 of this Part to expedite investigative, preventive or corrective action by an owner or operator or to initiate such action.

- d) The following underground storage tank systems are excluded from the requirements of this Part:

- 1) Equipment or machinery such as hydraulic lift tanks and electrical generators used in connection with the operation of such tanks.
- 2) Any underground storage tank system whose capacity is 110 gallons or less.
- 3) Any underground storage tank system that contains a de minimus concentration of petroleum substances.
- 4) Any emergency spill or overflow containment underground storage tank system that is expeditiously emptied after use.
- 5) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act (33 U.S.C. 1251 et seq. (1972)).
- 6) Any UST system holding hazardous waste listed or identified under Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.) or a mixture of such hazardous waste or other regulated substances.

(Source: Amended at 21 Ill. Reg. 3617 effective July 1, 1993)

## Section 732.101. Election to Proceed under Part 732

- a) Owners or operators of any underground storage tank system used to contain petroleum and for which a release was reported to the proper State authority on or before September 12, 1993, may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such election shall be submitted on forms prescribed and provided by the Agency. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.

- b) Except as provided in Section 732.100(b) of this Part, owners or operators of underground storage tanks (USTs) used exclusively to store flammable or highly combustible liquids on the premises where stored and which are not subject to the requirements of this Part may elect to proceed in accordance with this Part by submitting to the Agency a written statement of such election signed by the owner or operator. Such

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election shall be submitted on forms prescribed and provided by the Agency. Corrective action shall then follow the requirements of this Part. The election shall be effective upon receipt by the Agency and shall not be withdrawn once made.

- c) If the owner or operator elects to proceed pursuant to this Part, corrective action costs incurred in connection with the release and prior to the notification of election shall be payable or reimbursable in the same manner as was allowable under the then existing law. Corrective action costs incurred after the notification of election shall be payable or reimbursable in accordance with Subparts E and F of this Part.

(Source: Amended at 21 Ill. Reg. 3617 effective July 1, 1993)

## Section 732.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act (415 ILCS 5).

"Act" means the Environmental Protection Act (415 ILCS 5).

"Agency" means the Illinois Environmental Protection Agency.

"Alternative Technology" means a process or technique, other than conventional technology, used to perform a corrective action with respect to soils contaminated by releases of petroleum from an underground storage tank.

"Board" means the Illinois Pollution Control Board.

"Bodily Injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank. (Section 57.2 of the Act)

"Class I Groundwater" means groundwater that meets the Class I: potable resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act. (Section 57.2 of the Act)

"Class III Groundwater" means groundwater that meets the Class III: special resource groundwater criteria set forth in the Board regulations adopted pursuant to the Illinois Groundwater Protection Act. (Section 57.2 of the Act)

"Confirmed Exceedence" means laboratory verification of an exceedence

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of the applicable groundwater quality standards or objectives.

"Confirmed Release" means a release of petroleum that has been confirmed in accordance with regulations promulgated by the Office of the State Fire Marshal at 41 Ill. Adm. Code 170.

"Conventional Technology" means a process or technique to perform a corrective action by removal, transportation and disposal of soils contaminated by a release of petroleum from an underground storage tank in accordance with applicable laws and regulations, but without processing to remove petroleum from the soils.

"Corrective Action" means activities associated with compliance with the provisions of Sections 37.6 and 37.7 of the Act. (Section 37.2 of the Act)

"Fill Material" means non-native or disturbed materials used to bed and backfill around an underground storage tank. (Section 37.2 of the Act)

"Free Product" means a contaminant petroleum that is present as a non-aqueous phase liquid for chemicals whose melting point is less than 30°C (e.g., liquid not dissolved in water).

"Full Accounting" means a compilation of documentation to establish, substantiate and justify the nature and extent of the corrective action costs incurred by an owner or operator.

"Fund" means the Underground Storage Tank Fund. (Section 37.2 of the Act)

"Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure. (Section 3.64 of the Act)

"Handling Charges" means administrative, insurance, and interest costs and a reasonable profit for procurement, oversight, and payment of subcontracts and field purchases.

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4 - light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including navy special fuel oil and bunker c. (Section 37.2 of the Act)

"IEMA" means the Illinois Emergency Management Agency.

"Indemnification" means indemnification of an owner or operator for

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the amount of judgment entered against the owner or operator in a court of law for the amount of any final order determining liability against the owner or operator by any agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator. (Section 37.2 of the Act)

"Licensed Professional Engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. (Section 37.2 of the Act)

"Line Item Estimate" means an estimate of the costs associated with each line item (including, but not necessarily limited to, personnel, equipment, travel, etc.) which an owner or operator anticipates will be incurred for the development, implementation and completion of a plan or report.

"Man-made Pathway" means constructed routes that may allow for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches or previously excavated and filled areas.

"Monitoring Well" means a water well intended for the purpose of determining groundwater quality or quantity.

"Natural Pathway" means natural routes for the transport of mobile petroleum free-liquid or petroleum-based vapors including, but not limited to, soil, groundwater, sand seams and lenses, and gravel seams and lenses.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or non-sudden release of petroleum from an underground storage tank or from that underground storage tank-including release from that underground storage tank-at-the-site-identified-in-the-course-of-performing corrective-action-in-response-to-the-initial-releaser. (Section 37.2 of the Act)

"OSFM" means the Office of the State Fire Marshal.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank. (42 U.S.C. Sec. 6991)

BOARD NOTE: A person who voluntarily undertakes action to remove an underground storage tank system from the ground shall not be deemed an

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"operator" merely by the undertaking of such action.

"Owner" means:

In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances;

In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such underground storage tank immediately before the discontinuation of its use. (42 U.S.C. Sec. 6991)

"Person" means, for the purposes of interpreting the definitions of the terms "owner" or "operator," an individual, trust, firm, joint stock company, joint venture, consortium, commercial entity, corporation (including government corporation), partnership, association, state, municipal corporation, or other legal entity, or a state, or any interstate body and shall include the United States Government and each department, agency and instrumentality of the United States. (Derived from 42 U.S.C. Sec. 6991)

"Petroleum" means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). (42 U.S.C. Sec. 6991)

"Physical Soil Classification" means verification of geological conditions consistent with regulations for identifying and protecting potable resource groundwater or verification that subsurface strata are as generally mapped in the publication Illinois Geological Survey Circular (1984) entitled "Potential for Contamination of Shallow Aquifers (1984)". Illinois Geological Survey Circular 1984, all classifications may include review of soil borings, well logs, physical soil analysis, regional geologic maps, or other scientific publications. (Section 57.2 of the Act)

"Potable" means generally fit for human consumption in accordance with accepted water supply principles and practices. (Section 3.65 of the Act)

"Property Damage" means physical injury to, destruction of, or contamination of tangible property owned by a person other than an owner or operator of the UST from which a release of petroleum has occurred and which tangible property is located off the site where the release occurred. Property damage includes all resulting loss or use of that property, or loss of use of tangible property that is not

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physically injured, destroyed or contaminated, but has been evacuated, withdrawn from use, or rendered inaccessible because of a release of petroleum from an underground storage tank. (Derived from Section 57.2 of the Act)

"Registration" means registration of an underground storage tank with the OSGM in accordance with Section 4 of the Gasoline Storage Act (430 ILCS 15/4).

"Regulated Recharge Area" means a compact geographic area, as determined by the Board, the geology of which renders a potable resource groundwater particularly susceptible to contamination. (Section 3.67 of the Act)

"Regulated Substance" means any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. Sec. 9601(14)] (but not including any substance regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act [42 U.S.C. Sec. 6921 et seq.]), and Petroleum. (42 U.S.C. Sec. 6991)

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils. (Section 57.2 of the Act)

"Residential Tank" means an underground storage tank located on property used primarily for dwelling purposes.

"Residential Unit" means a structure used primarily for dwelling purposes including multi-unit dwellings such as apartment buildings, condominiums, cooperatives or dormitories.

"Setback Zone" means a geographic area, designated pursuant to the Act or regulations, containing a potable water supply well or a potential source of contamination, and within which certain prohibitions or regulations are applicable, in order to protect groundwater. (Section 3.61 of the Act)

"Site" means any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way. (Section 57.2 of the Act)

"Stratigraphic Unit" means a site-specific geologic unit of native deposited material and/or bedrock of varying thickness (e.g., sand, gravel, silt, clay, bedrock, etc.). A change in stratigraphic unit is recognized by a clearly distinct contrast in geologic material or a change in physical features within a zone of gradation. For the

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Purposes of this Part, a change in stratigraphic unit is identified by one or a combination of differences in physical features such as texture, cementation, fabric, composition, density, and/or permeability of the native material and/or bedrock.

"Surface Body of Water" or "Surface Water Body" means a natural or made body of water on the ground surface including, but not limited to, lakes, ponds, reservoirs, retention ponds, rivers, streams, wetlands, drainage ditches. Surface body of water does not include puddles or other accumulations of precipitation, run-off or groundwater in UST excavations.

"Tank Field" means all underground storage tanks at a site that reside within a circle with a 100 foot radius.

"Underground Storage Tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any of the following or any pipes connected thereto:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

Septic tank;

Pipeline facility (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.) or the Hazardous Liquid Pipeline Safety Act of 1975 (49 U.S.C. App. 2001 et seq.) or which is an intrastate pipeline facility regulated under state laws as provided in either of these provisions of law, and which is determined by the Secretary of Energy to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;

Surface impoundment, pit, pond, or lagooon;

Storm water or waste water collection system;

Flow-through process tank;

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank

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is situated on or above the surface of the floor. (Derived from 42 U.S.C. Sec. 6991)

The term "Underground Storage Tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit. (Section 57.2 of the Act)

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

(Source: Amended at 21 Ill. Reg. 3617, effective June 1, 1994)

## Section 732.104 Incorporations by Reference

- a) The Board incorporates the following material by reference:
  - ASTM. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103 (215) 299-5400
  - ASTM D 422-63, Standard Test Method for Particle-Size Analysis of Soils, approved November 21, 1963 (reapproved 1990).
  - ASTM D 1140-92 1140-54, Standard Test Method for Amount of Material in Soils Finer than the No. 200 (75 um) Sieve, approved November 15, 1992 September-15-1954-(reapproved-1990).
  - ASTM D 2216-92 2216-99, Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock, approved June 15, 1992 November-30-1999.
  - ASTM D 5643-93 4643-97, Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method, approved July 13, 1993 February-15-1997.
  - ASTM D 6822 2467-99, Standard Test Method for Classification of Soils for Engineering Purposes, approved September 15, 1993 June-29-1999.
  - ASTM D 2488-93 2469-99, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure), approved September 15, 1993 June-29-1999.
  - ASTM D 5084-90, Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeater, approved June 22, 1990.
  - ASTM D 4525-90, Standard Test Method for Permeability of Rocks by Flowing Air, approved May 25, 1990.
  - ASTM D 1587-83, Standard Practice for Thin-Walled Tube Sampling of Soils, approved August 17, 1983.

ISGS. Illinois State Geological Survey, 615 E. Peabody Drive, Champaign, IL 61820-9564 (217) 333-4747  
Richard C. Berg, John P. Kempton, Keros Cartwright, "Potential for Contamination of Shallow Aquifers in Illinois" (1984),

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- Circular No. 532.
- NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (703) 487-4600
- "Methods for Chemical Analysis of Water and Wastes," EPA Publication No. EPA-600/4-79-020 (March 1983), Doc. No. PB 89-220461.
- "Methods for the Determination of Organic Compounds in Drinking Water," EPA, ENSL, EPA-600/4-88/039 (Dec. 1988), Doc. No. PB 89-220461.
- "Practical Guide for Ground-Water Sampling," EPA Publication No. EPA-600/2-95/104 (September 1985), Doc. No. PB 86-137304.
- "Rapid Assessment of Exposure to Particulate Emissions from Surface Contamination Sites," EPA Publication No. EPA-600/8-95/002 (February 1985), Doc. No. PB 95-132219.
- "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," EPA Publication No. SW-846, Third Edition (September 1986), as amended by Revision 1 (Final Update I, (July 1992), Doc. No. 955-001-00000-1 PB-89-148976.
- USGS. United States Geological Survey, 1961 Stout Street, Denver, CO 80294 (303) 844-1169
- Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," Book I, Chapter D2 (1981).
- b) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (202) 783-3238
- 40 CFR 261, Appendix II (1992).
- 40 CFR 761.120 (1993).
- c) This Section incorporates no later editions or amendments.

(Source: Amended at 21 Ill. Reg. 3617 - effective 4-1-93)

## SUBPART B: EARLY ACTION

## Section 732.202 Early Action

- a) Upon confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, the owner or operator, or both, shall perform the following initial response actions within 24 hours after the release:
- 1) Report the release to IEWA (e.g., by telephone or electronic mail);
  - 2) Take immediate action to prevent any further release of the regulated substance to the environment; and
  - 3) Identify and mitigate fire, explosion and vapor hazards.
- b) Within 20 days after upon confirmation of a release of petroleum from

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- a UST system in accordance with regulations promulgated by the OSFM, the owner or operator shall perform the following initial abatement measures:
- 1) Remove as much of the petroleum from the UST system as is necessary to prevent further release into the environment;
  - 2) Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils and groundwater;
  - 3) Shut off and repair any leaking underground storage tank and safety hazards posed by vapors of free product that have migrated from the UST excavation zone and entered into subsurface structures (such as sewers or basements);
  - 4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner or operator shall comply with 35 Ill. Adm. Code 722, 724, 725, and 807 through 815;
  - 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with regulations promulgated by the OSFM. In selecting sample types, sample locations, and measurement methods, the owner or operator shall consider the nature of the stored substance, the type of tank, the type of release, the location of the release, and the appropriate method for identifying the presence and source of the release, and
  - 6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 732.203 below.
- c) Within 20 days after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OSFM, owners or operators shall submit a report to the Agency summarizing the initial abatement steps taken under subsection (b) of this Section above and any resulting information or data. The report shall be submitted on forms prescribed and provided by the Agency or in a similar format containing the same information.
- d) Within 45 days after confirmation of a release, owners or operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in subsections (a) and (b) of this Section. The information shall include, but is not limited to, the following:
- 1) Data on the nature and estimated quantity of release;
  - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;



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3) Results of the site check required at subsection (b)(5) of this Section;

4) Results of the free product investigations required at subsection (b)(6) of this Section, to be used by owners or operators to determine whether free product must be recovered under Section 732.203.

e) Within 45 days after confirmation of a release of petroleum from a UST system in accordance with regulations promulgated by the OPRM, owners or operators shall submit to the Agency the information collected in compliance with subsection (d)(1) of this Section, and submit that information to the Agency for its applicability and technical adequacy. The information shall be submitted on forms prescribed and provided by the Agency or in a similar format containing the same information.

f) Notwithstanding any other corrective action taken, an owner or operator may, at a minimum, and prior to submission of any plans to the Agency, remove the tank system, or repair or abandon the underground storage tank in place, in accordance with the regulations promulgated by the Office of the State Fire Marshal. The owner may remove visibly contaminated fill material and any groundwater in the excavation which exhibits a sheen. Early action may also include a disposal in accordance with applicable regulations or ex-situ treatment of contaminated fill material in accordance with Section 57.7a(1)(B) of the Act. (Section 57.6(b) of the Act)

g) For purposes of reimbursement, the activities set forth in subsection (f) of this Section shall be performed within 45 days after the completion of a release investigation conducted in accordance with the regulations promulgated by the Agency, or within 45 days after confirmation of a release of such circumstances. Costs incurred beyond 45 days shall be eligible if the Agency determines that they are consistent with early action.

BOARD NOTE: Section 57.7a(1)(B) of the Act limits payment or reimbursement from the Fund for removal of contaminated fill material during early action activities. Owners or operators proceeding with activities set forth in subsection (f) of this Section are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

(Source: Amended at 21 Ill. Reg. 361 effective 1/1/81)

## Section 732.203 Free Product Removal

Under any circumstance in which conditions at a site investigations under Section 732.202(b)(6) indicate the presence of free product, owners or operators shall remove free product to the maximum extent practicable while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements

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of this Section, owners or operators shall:

a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State and federal regulations;

b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;

c) Handle all flammable products in a safe and competent manner to prevent fire, explosions, and other hazards;

d) Within 45 days after the confirmation of presence of free product a release of petroleum from a UST, in accordance with regulations promulgated by the OPRM, prepare and submit to the Agency a free product removal report on forms prescribed and provided by the Agency or in a similar format containing the same information. The report shall, at a minimum, provide the following:

- 1) The name of the persons responsible for implementing the free product removal measures;
- 2) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavations;
- 3) The type of free product recovery system used;
- 4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
- 5) The type of treatment applied to, and the effluent quality expected from, any discharge;
- 6) The materials that have been or are being taken to obtain necessary permits for any discharge, and the disposal of the recovered free product.
- 7) The disposition of the recovered free product.

(Source: Amended at 21 Ill. Reg. 361 effective 1/1/81)

## SUBPART C: SITE EVALUATION AND CLASSIFICATION

## Section 732.300 General

- a) Except as provided in subsection (b) of this Section below, the owner or operator of any site subject to this Part shall evaluate and classify the site in accordance with the requirements of this Subpart C. All such sites shall be classified as "No Further Action," "Low Priority" or "High Priority." Site classifications shall be based on the results of the site evaluation, including, but not limited to, the applicable soil classification and the groundwater investigation, if any.
- b) Owners or operators subject to this Part 732 may proceed without conducting site classification activities pursuant to this Subpart C under the following circumstances:

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- 1) If the owner or operator chooses to conduct remediation sufficient to satisfy the remediation objectives in Section 732.408 of this Part. Upon completion of the remediation, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels. A groundwater investigation shall be conducted and a copy of the groundwater investigation shall be submitted to the Agency. Admin. Code 742 determines that no groundwater investigation is necessary. **3617**
- A) There is evidence that groundwater wells have been impacted by the release above the Tier 1 residential numbers set forth in 35 Ill. Adm. Code 742.A. Appendix B (e.g., as found during release confirmation or previous corrective action measures).
- B) Free Product that may impact groundwater is found to need recovery in compliance with Section 732.203 of this Part with groundwater as a result of:
- C) There is evidence that contaminated soils may be in contact with groundwater as a result of:

- 1) Groundwater infiltrating the tank excavation or groundwater occurring at or above the invert elevation of the UST.
- 2) If, upon completion of early action requirements pursuant to Subpart C of this Part, the owner or operator can demonstrate compliance with the remediation objectives required in Section 732.408 of this Part. Upon completion of the early action requirements, the owner or operator shall submit a corrective action completion report demonstrating compliance with the required levels.

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section above are advised that they may not be entitled to full payment or reimbursement. See Subpart F of this Part.

- c) For corrective action completion reports submitted pursuant to subsection (b) of this Section above, the Agency shall issue a No Further Remediation Letter. No Further Remediation Letter upon approval of the report by the Agency or by operation of law in accordance with Subpart B.

(Source: Amended at 21 Ill. Reg. **3617**, effective 1/1/01)

## Section 732.302 \*No Further Action\* Sites

- a) Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as "No Further Action" if all of the following criteria are satisfied:

- 1) The physical soil classification procedure confirms either of the following:

- A) "Berg Circular"

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- i) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part; and
- ii) The site is located in an area designated D, E, F or G on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," or
- B) The site soil characteristics satisfy the criteria of Section 732.307(d)(3) of this Part;
- 2) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;
- 3) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural pathways or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- 4) No designated Class III special resource groundwater is within 200 feet of the UST system; and
- 5) After completing early action measures in accordance with Subpart B of this Part, no surface bodies of water are adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.
- b) Groundwater investigation shall be required to confirm that a site meets the criteria of a No Further Action site if the Agency has received information indicating that the groundwater is contaminated at levels in excess of applicable groundwater objectives specified in 35 Ill. Adm. Code 742 at the property boundary line of 200 feet from the UST system, whichever is less. In such cases, a groundwater investigation that meets the requirements of Section 732.307(1) shall be performed. If the investigation confirms there is an exceedance of applicable Tier 1 residential indicator contaminant objectives (set forth in 35 Ill. Adm. Code 742.A. Appendix B), the Agency may reclassify the site as High Priority. No groundwater investigation pursuant to Section 732.307(1) shall be required to demonstrate that a site meets the criteria of a "No Further Action" site.

(Source: Amended at 21 Ill. Reg. **3617**, effective 1/1/01)

## Section 732.303 \*Low Priority\* Sites

Unless an owner or operator elects to classify a site under Section 732.312, Sites shall be classified as "Low Priority" if all of the following

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## criteria are met:

- a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The groundwater quality standard or groundwater objective for any applicable indicator contaminant has not been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, BL, B2, BX, CL, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," and incorporated by reference at Section 732.104 of this Part;

B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, BL, B2, BX, CL, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is not within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is no designated Class III special resource groundwater within 200 feet of the UST system after:

e) After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of the release of petroleum.

(Source: Amended at 21 Ill. Reg. 3610.1, effective 1/1/88.)

## Section 732.304 "High Priority" Sites

Unless an owner or operator elects to classify a site under Section 732.312, sites shall be classified as "High Priority" if any of the following are met:

a) The physical soil classification and groundwater investigation procedures confirm the following:

1) The groundwater quality standard or groundwater objective for any

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## applicable indicator contaminant has been exceeded at the property boundary line or 200 feet from the UST system, whichever is less; and

2) "Berg Circular"

A) The site is located in an area designated A1, A2, A3, A4, A5, AX, BL, B2, BX, CL, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," and incorporated by reference at Section 732.104 of this Part;

B) The site's actual physical soil conditions are verified as consistent with those designated A1, A2, A3, A4, A5, AX, BL, B2, BX, CL, C3, C4, or C5 on the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois"; or

3) The site soil characteristics do not satisfy the criteria of Section 732.307(d)(3) of this Part;

b) The UST system is within the minimum or maximum setback zone of a potable water supply well or regulated recharge area of a potable water supply well;

c) After completing early action measures in accordance with Subpart B of this Part, there is evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

d) There is no designated Class III special resource groundwater within 200 feet of the UST system after:

e) After completing early action measures in accordance with Subpart B of this Part, there is no evidence that, through natural or man-made pathways, migration of petroleum or vapors threaten human health or human safety or may cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;

f) There is no designated Class III special resource groundwater within 200 feet of the UST system after:

g) After completing early action measures in accordance with Subpart B of this Part, there are no surface bodies of water adversely affected by the presence of a visible sheen or free product layer as a result of a release of petroleum.

(Source: Amended at 21 Ill. Reg. 3611, effective 1/1/88.)

## Section 732.305 Plan Submittal and Review

a) Unless an owner or operator elects to classify a site under Section 732.312, prior to conducting any site evaluation activities, the owner or operator shall submit to the Agency a site classification plan, including but not limited to a physical soil classification and groundwater investigation plan, satisfying the minimum requirements for site evaluation activities as set forth in Section 732.307. The plans shall be designed to collect data sufficient to determine the site classification in accordance with Section 732.302, 732.303 or 732.304 of this Part. Classification shall be submitted on forms prescribed and provided by the Agency or in a

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similar-format-containing-the-same-information.

b) In addition to the plan required in subsection (a) of this Section above and prior to conducting any site evaluation activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency:

- 1) An Application for payment of costs associated with eligible early action costs incurred pursuant to Subpart B of this Part, except as provided in subsection (b)(2) of this Section below; and
- 2) A site classification budget plan, which shall include, but not be limited to, a copy of the eligible and creditably determined of the OSMW implementation and completion of the site evaluation activities required in Section 732-307. In accordance with Section 732-204 of this Part, the owner or operator may submit a site classification budget plan that includes a line item estimate of the activities and costs of early action for review and approval prior to the submittal of an application for payment. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732-605 and 732-606 of this Part. Site classification budget plans shall be submitted on forms prescribed and provided by the Agency or in a similar format-containing-the-same information.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding the procedures contained in Subpart E of this Part, an owner or operator may proceed to conduct site evaluation activities in accordance with this Subpart C prior to the submittal or approval of an otherwise required site classification plan (including physical soil classification and groundwater investigation plans and associated budget plans). However, any such plan shall be submitted to the Agency for review and approval, rejection or modification in accordance with the procedures contained in Subpart E of this Part prior to payment or reimbursement for any related costs or the issuance of a No Further Remediation Letter No-Further-Remediation Letter.

e) If, following the approval of any site classification plan, an owner or operator determines that revised procedures or cost estimates are necessary in order to comply with the minimum required activities for the site, the owner or operator shall submit, as applicable, an amended site classification plan or associated budget plan for review and approval. The Agency shall have the authority to review and approve or reject any such plan in accordance with the procedures contained in Subpart E of this Part.

BOARD NOTE: Owners or operators proceeding under subsection (b) of this Section are advised that they may not be entitled to full payment

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or reimbursement. See Subpart F of this Part.

(Source: Amended at 21 Ill. Reg. 36429, effective

## Section 732.306 Deferred Site Classification; Priority List for Payment

a) ~~An notwithstanding any other provision or rule of law with the exception of the early action requirements of Subpart B of this Part and the investigation of migratory pathways as required by Section 732-307e), the owner or operator who has received approval for submitted any budget budget plan submitted pursuant to this Part and who is eligible for payment from the Underground Storage Tank Fund may elect to defer site classification low priority groundwater monitoring or remediation activities until funds are available from the Fund. Site classification of the budget plan shall be the same as the site classification of the budget plan. If the owner or operator elects to defer site classification of the budget plan, the owner or operator shall be made in writing to the Agency within 30 days of receipt of Agency approval of a budget plan. At that time or up until 60 days thereafter, the owner or operator shall also provide the results of the investigation of the migratory pathways so that the Agency can make its decision in accordance with subsection (b) of this Section. The Agency shall provide notice to the owner or operator at such time as it approves the budget plan whether sufficient resources are available in order to immediately commence the approved measures. (Section 57.8(b) of the Act)~~

- 1) Approvals of budget plans shall be pursuant to Agency review or by operation of law in accordance with Subpart E of this Part.
- 2) The Agency shall monitor the availability of funds to determine whether sufficient resources exist to provide payment in an amount equal to the total of the approved budget plans and shall provide notice to the owner or operator of the availability of funds in accordance with Section 732-503(b). Funds shall not be deemed available for owners or operators electing to defer site classification so long as there are owners or operators on the priority list established pursuant to Section 732.603(d) of this Part awaiting forwarding of vouchers to the Office of the State Comptroller.

3) Upon receiving written notification that an owner or operator elects to defer site classification until funds are available, the Agency shall place the site on a priority list for payment, and notification of availability of sufficient funds. Sites shall enter the priority list for payment based solely on the date the Agency receives the written election notification of deferral, with the earliest dates having the highest priority. The Agency's record of the date of receipt shall be deemed conclusive, unless a contrary date is proven by a dated, signed

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- receipt from registered or certified mail.
- 4) As funds become available, the Agency shall encumber funds for each site in the order of priority in an amount equal to the total of the approved budget plan for which deferral was sought. The Agency shall then notify owners or operators that sufficient funds have been allocated for the owner or operator's site. After such notification the owner or operator shall commence site classification activities.
- 5) Authorization of payment of encumbered funds for deferred site classification activities shall be approved in accordance with the requirements of Subpart F of this Part.
- 6) The priority list for payment and notification of availability of encumbered funds shall be subject to the following: (a) The Agency shall correct the action pursuant to Section 732.406 with both types of deferrals entering the list and moving up solely on the basis of the date the Agency receives written notice of the deferral.
- b) An owner or operator who elects to defer site classification, low priority groundwater monitoring, or remediation activities under subsection (a) of this Section shall submit a report demonstrating the following:
- 1) The early action requirements of Subpart B of this Part have been met; and
- 2) The release does not pose a threat to human health or the environment through migratory pathways following the investigation of migration pathways requirements of Section 732.307(g). Should the Agency or owner or operator determine a threat to human health and/or the environment requires immediate action, including the existence of petroleum or vapors which threaten human health or human safety or any cause of explosion in basins, vaults or other confined spaces, the citation to commence site classification upon the availability of funds shall not be available. The Agency shall notify the owner or operator by certified mail that a situation exists that would preclude the owner or operator from commencing site classification upon the availability of funds. Such action by the Agency shall not be subject to appeal. (Section 57.08(b) of the Act)
- c) An owner or operator may withdraw the election to commence site classification activities upon the availability of funds at any time. The Agency shall be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with site classification in accordance with the requirements of this Part.

(Source: Amended at 21 Ill. Reg. 3613, effective 1-1-83)

Section 732.307 Site Evaluation

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- a) Except as provided in Section 732.300(b), or unless an owner or operator elects to classify a site under Section 732.312, the owner or operator of any site for which a release of petroleum has been confirmed in accordance with regulations promulgated by the OSPM and reported to IEMA shall arrange for site evaluation and classification in accordance with the requirements of this Section. A Licensed Professional Engineer (or, where appropriate, persons working under the direction of a Licensed Professional Engineer) shall conduct the site evaluation. The results of the site evaluation shall provide the basis for determining the site classification. The site classification shall be certified as required by the supervising Licensed Professional Engineer.
- b) As a part of each site evaluation, the Licensed Professional Engineer shall determine the physical soil classification in accordance with the procedures at subsections (c) or (d) of this Section below. Except as provided in subsection (e) of this Section below, all elements of the chosen method of physical soil classification must be completed for each site. In addition to the requirement for a physical soil classification, the Licensed Professional Engineer shall, at a minimum, complete the requirements at subsections (f) through (j) of this Section below before classifying a site as "High Priority" or "Low Priority" and subsections (f) through (i) of this Section below before classifying a site as "No Further Action."
- c) Method One for Physical Soil Classification:
- 1) Soil Borings
- A) Prior to conducting field activities, a review of scientific publications and regional geologic maps shall be conducted to determine if the subsurface strata are as generally mapped in the Illinois State Geological Survey Circular 1131, entitled, "Soil Correlation and Stratigraphic Column of the Illinois Valley," incorporated by reference in Section 732.104 of this Part. A list of the publications reviewed and any preliminary conclusions concerning the site geology shall be included in the site classification completion report.
- B) A minimum of one soil boring to a depth that includes 50 feet of native soil or to bedrock shall be performed for each tank field with a release of petroleum.
- C) If, during boring, bedrock is encountered or if auger refusal occurs because of the density of a geologic material, a sample of the bedrock or other material shall be collected to determine permeability or an in situ test shall be performed to determine hydraulic conductivity in accordance with subsections (c)(3)(A) and (c)(3)(B) of this Section below. If bedrock is encountered or auger refusal occurs, the Licensed Professional Engineer shall verify that the conditions that prevented the full boring are expected to be continuous through the remaining required depth.



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- D) Borings shall be performed within 200 feet of the outer edge of the tank field or at the property boundary, whichever is less. If more than one boring is required per site, borings shall be spaced to provide reasonable representation of site characteristics. The actual spacing of the borings shall be based on the regional hydrogeologic information collected in accordance with subsection 732.104 of this Part, or other Agency approved method.
- E) Location shall be chosen to limit to the greatest extent possible the vertical migration of contamination.
- F) Soil borings shall be continuously sampled to ensure that no gaps appear in the sample column.
- G) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- H) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- I) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- J) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- K) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- L) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- M) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- N) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- O) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- P) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- Q) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- R) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- S) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- T) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- U) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- V) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- W) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- X) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- Y) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.
- Z) If anomalies are encountered, additional soil borings may be necessary to verify the consistency of the site geology.

## 2) Soil Properties

The following tests shall be performed on a representative sample of the soil:

i) The alternative technology provides equivalent, or superior, information as required by this Section;

ii) The technology has been successfully utilized in applications similar to the proposed application;

iii) Methods for quality control can be implemented; and

iv) The owner or operator has received written approval from the Agency prior to the start of the investigation.

## 3) Hydraulic Conductivity

- A) If a water bearing unit is encountered while performing soil borings, the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed in each such unit.
- i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.
- ii) The screen must be contained within the saturated zone.
- B) If no water bearing unit is encountered in the required soil borings, then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:
- i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM (American Society for Testing and Materials) Standard D 5084-99, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

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4643-97, "Standard Test Method for Laboratory Determination of Water (Moisture) Content of Soil and Rock," or "Standard Test Method for Determination of Water (Moisture) Content of Soil by the Microwave Oven Method," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;

- C) A soil classification using the test methods specified in ASTM Standards D 2487-96 or D 2488-93 2488-96, "Standard Test Method for Classification of Soils for Engineering Purposes" or "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," incorporated by reference in Section 732.104 of this Part;
- D) If a water bearing unit is encountered while performing soil borings, the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed in each such unit.
- E) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification borings. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, or other Agency approved method. The borings from which the thin-walled tubes are collected must be logged in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).

## 3) Hydraulic Conductivity

- A) If a water bearing unit is encountered while performing soil borings, the physical soil classification, an in-situ hydraulic conductivity test shall be performed in the first fully saturated layer below the water table. If multiple water bearing units are encountered, an in-situ hydraulic conductivity test shall be performed in each such unit.
- i) Wells used for hydraulic conductivity testing shall be constructed in a manner that ensures the most accurate results.
- ii) The screen must be contained within the saturated zone.
- B) If no water bearing unit is encountered in the required soil borings, then the following laboratory analyses shall be conducted, as applicable, on a representative sample from each stratigraphic unit:

i) A hydraulic conductivity analysis of undisturbed or laboratory compacted granular soils (i.e., clay, silt, sand or gravel) using the test method specified in ASTM (American Society for Testing and Materials) Standard D 5084-99, "Standard Test Method for Measurement of Hydraulic Conductivity of Saturated Porous Materials Using a Flexible Wall Permeameter," incorporated by reference in Section 732.104 of this Part, or other Agency approved method;



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- Part, or other Agency approved method.
- ii) Any material having a hydraulic conductivity of greater than  $1 \times 10^{-3}$  cm/s will fail the hydraulic conductivity requirements within the Berg Circular for "No Further Action" geology, and therefore, no tests need to be run on the soils.
  - iii) A hydraulic conductivity analysis of bedrock using the test method specified in ASTM (American Society for Testing and Materials) Standard D 4525-90, "Standard Test Method for Permeability of Rocks by Flowing Air," incorporated by reference in Section 732.104 of this Part, or other Agency approved method.
  - iv) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, which other Agency approved method, in which the thin-walled tube sampling must be collected must be allowed in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).
- 4) If the results of the physical soil classification or groundwater investigation reveal that the actual site geologic characteristics are different from those generally mapped by the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference at Section 732.104 of this Part, the site classification shall be determined using the actual site geologic characteristics.
- d) Method Two for Physical Soil Classification:
- 1) Soil Borings
    - A) A minimum of one soil boring to a depth that includes native material from the invert elevation of the most shallow USF to 15 feet below the invert elevation of the deepest USF. The soil boring shall be filled with a release of petroleum at the deepest USF first, and then a release of petroleum at the invert elevation of the USF.
    - B) This boring shall meet the requirements of subsections (c)(1)(C) through (c)(1)(G) of this Section above.
  - 2) Soil Properties
 

The following tests shall be performed on a representative sample of each of the stratigraphic units unit encountered in the native soil boring which has been determined most conducive to transporting contaminants from the source based on site factors, including but not limited to visual and tactile observations, the classification of the soil, any prior evaluation of the site stratigraphy, the volume of the release, the size or extent of

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- the unit, and the requirements of ASTM D 2188-93, "Standard Practice for Description and Identification of Soils (Visual-Manual Procedure)," approved September 15, 1993.
- A) Part, or other Agency approved method.
  - B) Either:
    - i) A pump test or equivalent to determine the yield of the geologic material. Methodology, assumptions and any calculations performed shall be submitted as part of the site classification completion report. If the aquifer geometry and transmissivity have been obtained through a site-specific field investigation, an analytical solution may be used to estimate well yield. The Licensed Professional Engineer shall demonstrate the appropriateness of the analytical solution to estimate well yield versus an actual field test. Well yield should be determined for either confined or unconfined formations. Once the yield has been determined site-specifically, the hydraulic conductivity shall be calculated; or
    - ii) For determination of hydraulic conductivity in accordance with subsection (c)(13) of this Section. Once the hydraulic conductivity has been determined site-specifically, the yield shall be calculated above.
  - C) If representative samples of each stratigraphic unit are collected for soil property testing by the use of thin-walled tube sampling, an additional soil boring must be performed for this sampling within 5 feet of the site classification boring. Thin-walled tube sampling must be conducted in accordance with ASTM Method D 1587-83, or other Agency approved method. The boring from which the thin-walled tube are collected must be allowed in accordance with the requirements of 35 Ill. Adm. Code 732.308(a).
- 3) The results of the borings and tests described in subsections (d)(1) and (d)(2) of this Section above shall be used to demonstrate whether native material from the invert elevation of the most shallow USF first, and then a release of petroleum at the deepest USF first, is first, and then a release of petroleum at the invert elevation of the USF meets all of the following criteria:
- A) Does not contain unconsolidated sand, gravel or sand and gravel that is 5 feet or more in thickness with 12 percent or less fines (i.e., fines that pass through a No. 200 sieve tested according to ASTM (American Society for Testing and Materials) Standard D 2487-93 2488-99, "Standard Test Method for Classification of Soils for Engineering Purposes," "Standard Practice for Description and Identification of Soils--(Visual-Manual Procedure)," incorporated by reference

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at Section 732.104 of this Part, or other Agency approved method):

- B) Does not contain sandstone that is 10 feet or more in thickness, or fractured carbonate that is 15 feet or more in thickness; and
- C) Is not capable of sustained groundwater yield, from up to a 12 inch borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and
- †† Sustained groundwater yield from up to a 12-inch diameter borehole, of 150 gallons per day or more from a thickness of 15 feet or less; and
- ††† Hydraulic conductivity of  $1 \times 10^{-4}$  cm/sec or greater.

D) Is not capable of hydraulic conductivity of  $1 \times 10^{-4}$  cm/sec or greater.

- e) If, during the completion of the requirements of subsections (c) or (d) of this Section above, a Licensed Professional Engineer determines that the site geology is not consistent with areas D, E, F or G of the Illinois State Geological Survey Circular (1984) entitled, "Potential for Contamination of Shallow Aquifers in Illinois," incorporated by reference in Section 732.104 of this Part or that the criteria of subsection (d)(3) are not satisfied, any remaining steps required by subsections (c) or (d) may be suspended, provided that the soil investigation has been sufficient to satisfy the requirements of subsection (g) of this Section below. If activities are suspended under this subsection (e), the Licensed Professional Engineer shall determine the requirements of subsections (f) through (j) of this Section before the requirements are determined. The site is "High Priority" or "Low Priority." The site conditions upon which the suspension of the requirements of subsections (c) or (d) of this Section above is based shall be documented in the site classification completion report.

f) Survey of Water Supply Wells

- 1) The Licensed Professional Engineer shall conduct a survey of water supply wells for the purpose of identifying and locating all community water supply wells within 2500 feet of the UST system and all potable water supply wells within 200 feet of the UST system. The survey shall include, but not be limited to, contacting the Illinois State Geological Survey and the Illinois State Water Survey. The local unit of government with authority over the site shall be contacted to determine if there is a local ordinance or policy regulating the usage of potable water supply wells.
- 2) The Licensed Professional Engineer shall provide a map to scale showing the locations of all community water supply wells and all potable water supply wells identified pursuant to subsection (f)(1) of this Section above. Radii of 200, 400, and 1000, and 2500 feet from the UST system shall be marked on the map.

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- 3) The Licensed Professional Engineer shall provide a table indicating the setback zone for each community water supply well and potable water supply well identified pursuant to subsection (f)(1) of this Section above and the distance from the UST system to the well. The locations of each well shall be identified on the map by numbers corresponding to the information provided in the table.
- 4) The Licensed Professional Engineer shall determine if the UST system exhibits the regulated release rate of any community water supply well or potable water supply well. The sources of release identified in making this determination shall be described in the site classification completion report.
- 9) Investigation of Migration Pathways

- 1) The Licensed Professional Engineer shall conduct an investigation either separately or in conjunction with the physical soil classification to identify all potential natural and man-made migration pathways that are on the site, in rights-of-way attached to the site, or in any area surrounding the site that may be adversely affected as a result of the release of petroleum from the UST system. Once the migration pathways have been identified, the areas along all such pathways shall be further investigated in a manner sufficient to determine whether or not there is evidence that migration of petroleum or vapors along such pathways:

- A) May potentially threaten human health or human safety; or
- B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

- 2) The Licensed Professional Engineer shall provide a map of the site and any surrounding areas that may be adversely affected by the release of petroleum from the UST system. At a minimum, the map shall be to scale, oriented with north at the top, and shall show the location of the leaking UST system(s) with any associated piping and all potential natural and man-made pathways that are on the site, in rights-of-way attached to the site, or that are in areas that may be adversely affected as a result of the release of petroleum.

- 3) Unless the Agency's review reveals objective evidence to the contrary, the Licensed Professional Engineer shall be presumed correct when certifying whether or not there is evidence that, through natural or man-made pathways, migration of petroleum or vapors:

- A) May potentially threaten human health or human safety; or
- B) May cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces.

- b) The Licensed Professional Engineer shall verify whether Class III groundwater exists within 200 feet of the UST system.

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- 1) The Licensed Professional Engineer shall locate all surface bodies of water on site and within 100 feet of the site and provide a map noting the locations. All such surface bodies of water shall be inspected to determine whether they have been adversely affected by the presence of a sheen or free product layer resulting from the release of petroleum from the UST system.

## 3) Groundwater Investigation

- 1) For sites at which such investigation is required pursuant to this Part, the ~~For any site that fails to satisfy the requirements for a No Further Action site classification~~ the Licensed Professional Engineer shall perform a groundwater investigation as required under this Part in accordance with this subsection (3) to determine whether an applicable indicator contaminant quality standard has been exceeded at the monitoring point. The investigation shall be completed within 200 feet from the UST system, whichever is less, as a result of the UST release of petroleum.
- 2) Applicable indicator contaminants and groundwater quality standards shall be those identified pursuant to Sections 732.310 and 732.311 of this Part.

- 3) Except as provided in subsection (1)(6), a minimum of four groundwater monitoring wells shall be installed at the property boundary or 200 feet from the UST system, whichever is less. In the event that a groundwater monitoring well cannot be physically installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection, the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the location is made, the owner or operator shall not change the location of the well. The Agency requires the installation of additional monitoring wells to ensure that at least one monitoring well is located hydraulically upgradient and three monitoring wells are located hydraulically downgradient of the UST system. The wells must be installed so that they provide the greatest likelihood of detecting migration of groundwater contamination. At a minimum, monitoring well construction shall satisfy the following requirements:

- A) Construction shall be in a manner that will enable the collection of representative groundwater samples;
- B) All monitoring wells shall be cased in a manner that maintains the integrity of the borehole. Casing material shall be inert so as not to affect the water sample. Casing requiring solvent-cement type couplings shall not be used;
- C) Wells shall be screened to allow sampling only at the desired interval. Annular space between the borehole wall and well screen section shall be packed with clean,

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well-rounded and uniform material sized to avoid clogging by the material in the zone being monitored. The slot size of the screen shall be designed to minimize clogging. Screens shall be fabricated from material that is inert with respect to the constituents of the groundwater to be sampled;

- D) Annular space above the well screen section shall be sealed with a relatively impermeable, expandable material such as cement/bentonite grout, which does not react with or in any way affect the sample, in order to prevent contamination of groundwater samples and groundwater and avoid interconnections between wells that extend to the highest water level in the groundwater level;

- E) The annular space shall be backfilled with expanding cement grout from an elevation below the first line and mounded above the surface and sloped away from the casing so as to divert surface water away;

- F) All monitoring wells shall be covered with vented caps and equipped with devices to protect against tampering and damage. Locations of wells shall be clearly marked and protected against damage from vehicular traffic or other activities associated with expected site use; and

- G) All wells shall be developed to allow free entry of water, minimize turbidity of the sample, and minimize clogging.

- 4) Monitoring well construction diagrams prescribed and provided by the Agency or diagrams using a similar format and containing the same information shall be completed for each monitoring well.

- 5) Static water elevations shall be measured for each monitoring well. Water elevations shall be taken from each well and analyzed for the applicable indicator contaminants. The data collected shall be used to determine the direction of groundwater flow and whether the applicable groundwater quality standards or clean-up objectives have been exceeded. Samples shall be collected and analyzed in accordance with the following procedures:

- A) Samples shall be collected in accordance with the procedures set forth in the documents "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Ground-Water Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," or "Techniques of Water Resources Investigations of the United States Geological Survey, Guidelines for Collection and Field Analysis of Ground-Water Samples for Selected Unstable Constituents," as appropriate for the applicable indicator contaminants or groundwater object and as incorporated by reference at Section 732.312 of this Part.

- B) Groundwater elevation in a groundwater monitoring well shall be determined and recorded to establish the gradient of the

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groundwater table.

- C) The analytical methodology used for the analysis of the indicator contaminants shall be consistent with both of the following:

1) The methodology shall have a practical quantitation limit (PQL) at or below the objectives or detection limit (ODL) as set forth in 35 Ill. Adm. Code levels of Appendix A.

742 or as set for mixtures or degradation products as provided in Section 732.310 of this Part; and

- 11) The methodology must be consistent with the methodologies contained in "Methods for Chemical Analysis of Water and Wastes," "Methods for the Determination of Organic Compounds in Drinking Water," "Practical Guide for Groundwater Sampling," "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods," and "Techniques of Water Resources Investigations for Collection and Analysis of Groundwater," as published by the United States Geological Survey, and "Guidelines for Collection and Analysis of Groundwater," as published by the United States Geological Survey, 732.194, or other Agency approved methods.

- D) In addition to analytical results, sampling and analytical reports shall contain the following information:

1) Sample collection information including but not limited to the name of sample collector, time and date of sample collection, method of collection, and monitoring location;

11) Sample preservation and shipment information including but not limited to field quality control;

- 111) Analytical procedures including but not limited to the method detection limits and the practical quantitation limits (PQL);

1V) Chain of custody and control; and

V) Field and lab blanks.

- 5) As an alternative to the installation of monitoring wells under subsection (1)(1), the Professional Engineer may recommend to the Agency that a site-specific evaluation of the groundwater monitoring should not be required.

A) The evaluation shall be based on a demonstration of the following factors:

1) Whether groundwater is present within the depth of the boring used to perform physical soil classification under the selected Method One under subsection (1)(1) or Method Two under subsection (1)(1);

11) Whether groundwater is withdrawn for potable use within 1000 feet of the UST system and at what depths; and

111) Whether seasonal fluctuation in groundwater could

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result in groundwater contacting contaminated soil (e.g., historical records).

- B) The presence or absence of a water bearing unit under subsection (1)(6)(A)(1) of this Section shall be determined on the basis of at least one soil boring to the depth necessary to perform physical soil classification under the selected Method One under subsection (1)(1) or Method Two under subsection (1)(1), unless a refusal occurs because of the density of a geologic material or because bedrock is encountered. If a refusal occurs, then the Licensed Professional Engineer must demonstrate the depth to a water bearing unit from the available site specific or regional information.

C) If the evaluation fails to demonstrate to the Agency that a groundwater investigation should not be required as part of a remediation activity, then the Licensed Professional Engineer shall perform a groundwater investigation in accordance with the remainder of this subsection (1).

- D) If the evaluation demonstrates to the Agency that a groundwater investigation should not be required, then the site shall be classified as Low Priority, unless other High Priority criteria are present. Upon Agency approval of the evaluation to demonstrate that a groundwater investigation should not be required, then the site shall be classified as Low Priority and a No Further Remediation letter shall be issued to the owner or operator of the site, unless other High Priority criteria are present.

(Source: Amended at 21 Ill. Reg. 36175 - effective 3/1/75)

## Section 732.308 Boring Logs and Sealing of Soil Borings and Groundwater Monitoring Wells

- a) Soil boring logs shall be kept for all soil borings. The logs shall be submitted along with the site classification completion report and shall be on forms prescribed and provided by the Agency or in a similar format containing the same information.

1) Soil boring logs shall contain the following information at a minimum:

A) Sampling device, sample number and amount of recovery;

B) Total depth of boring to the nearest 6 inches;

C) Detailed field observations describing materials encountered in boring, including soil constituents, consistency, color, density, moisture, odors, and the nature and extent of sand or gravel lenses or seams equal to or greater than 1 inch in thickness;

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- D) Petroleum hydrocarbon vapor readings (as determined by continuous screening of borings with field instruments capable of detecting such vapors);
- E) Locations of sample(s) used for physical or chemical analysis; and
- F) Groundwater levels while boring and at completion.
- 2) Boring logs for soil boring(s) completed for physical soil classification also shall include the following information, as applicable for the classification method chosen, for each stratigraphic unit encountered at the site:

- A) Moisture content;
- B) Compression strength in tons per square foot (TSF) using a hand penetrometer; and
- C) Unified Soil Classification System (USCS) soil classification group symbol in accordance with ASTM Standard D 2487-93 2499-99, "Standard Test Method for Classification of Soils for Engineering Purposes," incorporated by reference in Section 732.104 of this Part, or other Agency approved method; and

- D) The reasoning behind the Licensed Professional Engineer's decision to perform or not perform soil testing pursuant to Section 732.307(g)(2) and (d)(2) of this Part as to each identified stratigraphic unit.

- b) Boreholes and monitoring wells shall be abandoned pursuant to regulations promulgated by the Illinois Department of Public Health at 77 Ill. Adm. Code 920.120.

(Source: Amended at 21 Ill. Reg. 3617, effective \_\_\_\_\_)

## Section 732.309 Site Classification Completion Report

- a) Within 30 days after the completion of a site evaluation in accordance with Section 732.307, the owner or operator shall submit to the Agency a site classification completion report addressing all applicable elements of the site evaluation. The report shall contain all maps, diagrams, and any other information required by Section 732.307, as well as the results or conclusions of all surveys and investigations and any documentation necessary to demonstrate those results or conclusions. The report shall be submitted on forms prescribed and provided by the Agency or in a letter-format containing the same information. The report shall be signed by the owner or operator, and shall contain the certification of a Licensed Professional Engineer of the State of Illinois in accordance with this Subpart C, and approve, reject or modify, in accordance with this Subpart C, the Agency's "High Priority" or "Low Priority" classification. The Agency shall add data to the report of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.
- b) The used oil indicator contaminants shall be those volatile, in accordance with the procedures contained in Subpart E of this Part.

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(Source: Amended at 21 Ill. Reg. 3617, effective \_\_\_\_\_)

## Section 732.310 Indicator Contaminants

- a) For purposes of this Part, the term "indicator contaminants" shall mean the parameters listed in subsections (b) through (g) of this Section below, including but not limited to leaded, unleaded, premium gasoline, and the indicator contaminants shall be benzene, ethylbenzene, toluene and total xylenes. For leaded gasoline, lead shall also be an indicator contaminant.
- c) For aviation turbine fuels, jet fuels, diesel fuels, gas turbine fuel oils, heating fuel oils, illuminating oils, kerosene, lubricants, liquid asphalt and dust laying oils, cable oils, crude oil, crude oil fractions, petroleum feedstocks, petroleum fractions and heavy oils, the indicator contaminants shall be benzene, ethylbenzene, toluene, and total xylenes and the polynuclear aromatics listed in Appendix A. For leaded aviation turbine fuels, lead shall also be an indicator contaminant.

- d) For transformer oils the indicator contaminants shall be benzene, ethylbenzene, toluene, total xylenes, the polynuclear aromatics listed in Appendix B and the polychlorinated biphenyl parameters listed in Appendix B.

- e) For hydraulic fluids the indicator contaminants shall be benzene, ethylbenzene, toluene, and total xylenes, the polynuclear aromatics listed in Appendix B and the polychlorinated biphenyl parameters listed in Appendix B.

- f) For petroleum spirits, mineral spirits, Stoddard solvents, high-flash aromatic naphthas, moderately volatile hydrocarbon solvents and petroleum base oils, the indicator contaminants shall be the volatile, base/neutral and polynuclear aromatic parameters listed in Appendix B. The Agency may add degradation products or mixtures of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

- g) For used oil the indicator contaminants shall be determined by the results of a used oil soil sample analysis. Prior to the submission of a site classification plan the owner or operator shall collect a grab sample from a location representative of soil contaminated by a release from the used oil USP. If an area of contamination cannot be identified, the sample shall be collected from beneath the used oil USP. The sample shall be analyzed for:

- 1) All volatile, base/neutral, polynuclear aromatic and metal parameters listed at Appendix B and any other parameters the Agency may determine by inspection may be present based on the USP. The Agency may add data to the report of any of the above pollutants in accordance with 35 Ill. Adm. Code 620.615.

- 2) The used oil indicator contaminants shall be those volatile,









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## Section 732.403 "Low Priority" Site

a) The owner or operator of a site that has been certified as a "Low Priority" site by a Licensed Professional Engineer and approved as such by the Agency or by operation-of-law shall develop a groundwater monitoring plan and perform groundwater monitoring in accordance with the requirements of this Section.

b) The owner or operator of a site certified as "Low Priority" by a Licensed Professional Engineer and approved as such by the Agency or by operation-of-law shall develop a groundwater monitoring plan designed to satisfy the following requirements at a minimum:

- 1) Groundwater monitoring shall be conducted for a period of three years following the Agency's approval of the site classification, unless subsection (b)(6) or subsection (f) of this Section applies.
- 2) Groundwater monitoring wells shall be placed at the property line or 200 feet from the UST system, whichever is closer. The wells shall be placed in a configuration designed to provide the greatest likelihood of detecting migration of groundwater contamination. In the event that a groundwater monitoring well cannot physically be installed at the property line or 200 feet from the UST system, whichever is closer, in accordance with this subsection (b)(2), the owner or operator shall request approval from the Agency to place the well further out, but at the closest practical point to the compliance point. The owner or operator may elect to place a monitoring well in a location that is closer to the UST system than the rule requires. However, once the election is made the owner or operator may not withdraw the election at a later time;
- 3) Groundwater monitoring wells shall satisfy the requirements at Section Sections 732.307(j)(3) and 732.307(j)(4) of this Part;
- 4) Groundwater monitoring wells shall be grouted to the bottom of each well shall be collected and analyzed on quarterly basis. During the second year of groundwater monitoring, samples from each well shall be collected and analyzed during the second and fourth quarters. During the third and final year of groundwater monitoring, at a minimum, samples from each well shall be collected and analyzed in the fourth quarter;
- 5) To determine whether groundwater quality standards or Agency approved objectives have been exceeded, samples for groundwater monitoring shall be collected and analyzed in accordance with the procedures set forth in Section 732.307(j)(5) of this Part for the applicable indicator contaminants determined pursuant to Section 732.310 of this Part;
- 6) The owner or operator may use groundwater monitoring data that has been collected up to 3 years prior to the site being certified as "Low Priority" if the data meets the requirements of subsections (b)(2) through (b)(3) of this Section. This data may

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be used to satisfy all or part of the three year period of groundwater monitoring required under this Section.

c) Prior to the implementation of groundwater monitoring, except as provided under subsection (b)(6) of this Section, the owner or operator shall submit the groundwater monitoring plan to the Agency for review in accordance with Section 732.405. If the owner or operator intends to seek payment from the Fund, a groundwater monitoring budget plan also shall be submitted to the Agency for review. The groundwater monitoring budget plan shall include a line item estimate of all costs associated with the implementation and completion of the groundwater monitoring plan. Groundwater monitoring and budget shall be submitted on forms prescribed and provided by the Agency. The results of the groundwater monitoring shall be the subject of a groundwater analysis report obtained pursuant to subsection (b) of this Section above shall be submitted to the Agency within 30 days after the end of each annual sampling period on forms prescribed and provided by the Agency, except as provided under subsection (b)(6) of this Section. Groundwater analysis data being used pursuant to this Section (b)(6) shall be submitted to the Agency as part of a Low Priority groundwater monitoring plan or the Low Priority groundwater monitoring completion report or in a similar format containing the same information.

- 1) The information to be collected shall include but not be limited to the information set forth in Section 732.307(j)(5) of this Part.
- 2) If at any time the groundwater analysis results indicate a confirmed exceedance of the applicable indicator contaminant groundwater quality standards or Agency approved objectives as a result of the underground storage tank release of petroleum, the owner or operator shall notify the Agency of the exceedance within 30 days and provide supporting documentation of the nature and extent of the exceedance.
- 3) Indicator contaminant groundwater quality standards shall be determined in accordance with Section 732.311 of this Part.
- e) Within 30 days after the completion of the "Low Priority" groundwater monitoring plan, the owner or operator shall submit to the Agency a groundwater monitoring completion report in accordance with Section 732.409 of this Part. If there is no confirmed exceedance of applicable indicator contaminant objectives during the three year groundwater monitoring period, the report shall contain a certification to that effect by a Licensed Professional Engineer.
- f) The Agency shall review the groundwater monitoring completion report in accordance with the procedures set forth in Subpart E of this Part and shall issue a No Further Remediation Letter. No further Remediation Letter shall be issued upon approval of the report by the Agency or Subpart E Section 732.409. If the owner or operator fails to submit a groundwater monitoring completion report or if the owner or operator fails to take Agency action to discontinue, modify, or reject by operation of law

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Low Priority groundwater monitoring completion report, the Agency shall indicate to the Board in conjunction with such appeal whether it intends to reclassify the site as High Priority.

- g) If at any time groundwater analysis results indicate a confirmed exceedence of applicable indicator contaminant objectives, the Agency may reclassify the site any time before the Agency's final approval of a Low Priority groundwater monitoring completion report as a High Priority site within 45 days after the receipt of an annual groundwater sampling report--a groundwater monitoring completion report or a modification--to the owner or operator--pursuant to Section 732.403(b). The Agency shall notify the owner or operator in writing if a site reclassified by the owner or operator in writing with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed. Any action by the Agency to reclassify the site as a High Priority site shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.
- h) The owner or operator of a "Low Priority" site reclassified to "High Priority" pursuant to subsection (g) of this Section above shall develop and submit for Agency approval a "High Priority" corrective action plan satisfying the requirements of Section 732.404 of this Part within 120 days after receiving the notice of reclassification. If the owner or operator intends to seek reimbursement from the Fund, a corrective action plan budget also shall be submitted within 120 days after the date of the notice of reclassification, 732.407(1)(6). As a result of the amendments to Section 732.407(1)(6), the owner or operator of a site classified as Low Priority by a Licensed Professional Engineer.

- 1) Shall prepare a report in accordance with Section 732.409 of this Part, which supports the issuance of a No Further Remediation Letter or reclassification of the site as a High Priority site.
- 2) In the event the site is reclassified as a High Priority site, the owner or operator shall develop and submit for Agency approval a High Priority corrective action plan in accordance with Section 732.403(h).

(Source: Amended at 21 Ill. Reg. 3617, effective 11-1-11)

## Section 732.404 "High Priority" Site

- a) The owner or operator of a site that has been certified by a Licensed Professional Engineer as a High Priority site and approved as such by the Agency or by operation of law shall develop and submit for Agency approval a corrective action plan in accordance with the requirements of this Section. The purpose of the corrective action plan shall be to

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remediate, or eliminate each of the criteria set forth in subsection (b) of this Section below that caused the site to be classified as "High Priority."

- b) The owner or operator of a site certified as "High Priority" by a Licensed Professional Engineer and approved as such by the Agency or by operation of law or reclassified as "High Priority" by the Agency pursuant to Section 732.403(g) shall develop a corrective action plan based on site conditions and designed to achieve the following as applicable to the site:

- 1) For sites submitting a site classification report under Section 732.4031, the owner or operator shall, after complete performance of the corrective action plan, apply the indicator objectives to the site. If the indicator action not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation, if an adjoining property owner will not allow the owner/operator access to his or her property so as to ascertain information sufficient to satisfy this requirement, or if the owner cannot be located, adequate documentation of the owner/operators' efforts to gain access to the property shall satisfy this subsection (b)(1)(A):

- B1) Provide that, after complete performance of the corrective action plan, Class III special resource groundwater quality standards for Class III special resource groundwater within 200 feet of the UST system are not exceeded as a result of the underground storage tank release for any indicator contaminant identified in the groundwater investigation. If the owner/operator is unable to gain access to the site through natural or manmade pathways, of petroleum in concentrations sufficient to harm human health or human safety or to cause effluents in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- D1) Remediate threats to potable water supplies; and
- E1) Remediate threats to bodies of surface water.

- 2) For sites submitting a site classification completion report under Section 732.312, provide that, after complete performance of the corrective action plan, the concentrations of applicable indicator contaminants meet the remediation objectives developed under Section 763.408 for any applicable exposure route not excluded from consideration under Section 732.312.

- 3) Where there has been no reliance on an engineered barrier to achieve compliance with remediation objectives developed under Section 732.408, compliance with remediation objectives shall be demonstrated as follows:

- A) For indicator remediation objectives:
- 1) Except as provided in subsection (ii) of this Section,

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or Section 732.307(1)(3) where there is a separate sampling point agreed to by the Agency, sampling points shall be located at the property boundary line or 200 feet from the UST system, whichever is less.

ii) If an institutional control prohibiting the use of groundwater as a potable supply is obtained under 35 Ill. Adm. Code 742.307(1)(3), sampling points shall be located at the property boundary line.

iii) Compliance with groundwater remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.

B) For soil remediation objectives:

i) Following site classification under this Part, sampling points shall be located on the site in areas where concentrations of indicator contaminants exceed the remediation objectives.

ii) Compliance with soil remediation objectives at applicable sampling points shall be determined in accordance with 35 Ill. Adm. Code 742.225.

4) Where an engineered barrier has been relied upon to achieve compliance with remediation objectives developed under Section 732.408, compliance shall be determined based on approval by the Agency of the sufficiency of the engineered barrier.

c) In developing the corrective action plan, if the Licensed Professional Engineer selects soil or groundwater remediation, or both, to satisfy any of the criteria set forth in subsection (b) of this Section above, remediation objectives shall be determined in accordance with Section 732.408 of this Part. Groundwater monitoring wells shall satisfy the requirements of Section Sections 732.307(1)(3) and 732.307(1)(4) of this Part.

d) As set forth provided otherwise pursuant to Section 732.312, in an investigation beyond those required for the site evaluation and classification may be necessary to determine the full extent of soil or groundwater contamination and of threats to human health or the environment. Such activities may include, but are not limited to, additional soil borings with sampling and analysis or additional groundwater monitoring wells with sampling and analysis. Such activities as are technically necessary and consistent with generally accepted engineering practices may be performed without submitting a work plan or receiving prior approval from the Agency, and associated costs may be included in a "High Priority" corrective action budget plan. A description of these activities and the results shall be included as a part of the corrective action plan.

e) The owner or operator shall submit the corrective action plan to the Agency for review in accordance with Section 732.405 of this Part. If the owner or operator intends to seek payment from the Fund, a corrective action plan budget also shall be submitted to the Agency

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for review. The corrective action plan budget shall include a line item estimate of all costs associated with the implementation and completion of the corrective action plan. The corrective action plan and corrective action plan budget shall be submitted on forms prescribed and provided by the Agency ~~or in a similar format containing the same information.~~

f) Within 30 days after completing the performance of the "High Priority" corrective action plan, the owner or operator shall submit to the Agency a corrective action completion report in accordance with Section 732.409 of this Part.

g) Within 120 days, the Agency shall review the corrective action completion report in accordance with the procedures set forth in Section 732.409 of this Part and shall issue a "No Further Remediation Letter" or a "Further Remediation Letter" to the owner or operator in accordance with Subpart G Section 732.410 upon approval by the Agency or by operation-of-law.

(Source: Amended at 21 Ill. Reg. ~~361730~~, effective

## Section 732.405 Plan Submittal and Review

a) Prior to conducting any corrective action activities pursuant to this Subpart D, the owner or operator shall submit to the Agency a "Low Priority" groundwater monitoring plan or a "High Priority" corrective action plan satisfying the minimum requirements for such activities as set forth in Section Sections 732.403 or 732.404 of this Part, as applicable. Groundwater monitoring and corrective action plans shall be submitted on forms prescribed and provided by the Agency or in a format containing the same information.

b) In addition to the plan required in groundwater monitoring or corrective action activities, any owner or operator intending to seek payment from the Fund shall submit to the Agency a groundwater monitoring or corrective action budget plan. Such budget plans shall include, but not be limited to, a copy of the eligibility and deductibility determination of the OSPM and a line item estimate of all costs associated with the development, implementation and completion of the applicable activities. Formulation of budget plans should be consistent with the eligible and ineligible costs listed at Sections 732.605 and 732.606 of this Part. Groundwater monitoring and corrective action budget plans shall be submitted on forms prescribed and provided by the Agency or in a similar format containing the same information.

c) The Agency shall have the authority to review and approve, reject or require modification of any plan submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

d) Notwithstanding subsections (a) and (b) of this Section above and





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*sewers, vaults or other confined spaces--the election to commence corrective action upon the availability of funds--shall not be available--the Agency shall notify the owner or operator by certified mail that a situation exists that would preclude the owner or operator from commencing corrective action upon the availability of funds--Such action by the Agency shall not be subject to appeal-- (Section 57.08(b) of the Act)*

- c) An owner or operator may withdraw the election to commence corrective action upon the availability of funds at any time. The Agency shall be notified in writing of the withdrawal. Upon such withdrawal, the owner or operator shall proceed with corrective action in accordance with the requirements of this Part.

(Source: Amended at 21 Ill. Reg. 3671 effective 1-1-77)

## Section 732.407 Alternative Technologies

- a) An owner or operator may choose to use an alternative technology for corrective action in response to a release of petroleum at a "High Priority" site. Corrective action plans proposing the use of alternative technologies shall be submitted to the Agency in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action plans contained in Section 732.404, the owner or operator who seeks approval of an alternative technology shall submit documentation along with the corrective action plan demonstrating that:

- 1) The proposed alternative technology has a substantial likelihood of successfully achieving compliance with all applicable regulations and all corrective action remediation objectives necessary to comply with State and Federal regulations and to protect human health or the environment;
- 2) The proposed alternative technology will not adversely affect human health or the environment;
- 3) The owner or operator will obtain all Agency permits necessary to legally authorize use of the alternative technology;
- 4) The owner or operator will implement a program to monitor whether the requirements of subsection (a)(1) of this Section above have been met; and
- 5) Within one year from the date of Agency approval the owner or operator will provide to the Agency monitoring program results establishing whether the proposed alternative technology will successfully achieve compliance with the requirements of subsection (a)(1) of this Section above and any other applicable regulations. The Agency may require interim reports as necessary to track progress of the alternative technology. The Agency will specify the approval when those interim reports shall be submitted to the Agency.

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- b) An owner or operator intending to seek payment or reimbursement for costs associated with the use of an alternative technology shall submit a corresponding budget plan in accordance with Section 732.405 of this Part. In addition to the requirements for corrective action budget plans at Section 732.404 of this Part, the budget plan must demonstrate that the cost of the alternative technology will not exceed the cost of conventional technology.
- c) If an owner or operator has received approval of a corrective action plan and associated budget plan from the Agency or by operation of law prior to implementing the plan and the alternative technology fails to satisfy the requirements of subsections (a)(1) or (a)(2) of this Section above, such failure shall not make the owner or operator ineligible to seek payment or reimbursement for the activities associated with the subsequent performance of a corrective action plan. Conventional technology shall be used until the owner or operator obtains reimbursement for the site exceed the statutory maximum. Owners or operators implementing alternative technologies without obtaining pre-approval shall be ineligible to seek payment or reimbursement for the subsequent performance of a corrective action using conventional technology.

(Source: Amended at 21 Ill. Reg. 3671 effective 1-1-77)

## Section 732.408 Risk-Based Remediation Objectives

- a) For sites requiring "High Priority" corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Section 732.400(b), 732.400(b), or 732.400(c) of this Part, the owner or operator shall propose remediation objectives for applicable indicator contaminants in accordance with 35 Ill. Adm. Code 689.042. Such remediation objectives shall be based on the assessment of risk to human health or the environment--that the proposed objectives will be protective of human health and the environment.
- b) Except as provided in subsection (c)(1)-(c)(3) below, the owner or operator may propose a site-specific remediation objective for applicable indicator contaminants.
- 2) For applicable indicator contaminants that have a groundwater quality standard promulgated pursuant to 35 Ill. Adm. Code 689.042, site-specific groundwater remediation objectives may be proposed so as to achieve a groundwater quality standard established pursuant to and using the procedures approved under 35 Ill. Adm. Code 689.
- b) In reviewing a proposal for a site-specific remediation objective pursuant to subsection (c)(1)-(c)(3) above, the Agency shall evaluate the following factors:
- 1) the potential for any remaining contaminants to pose a



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- a) significant threat to human health or the environment;
- b) circumstances related to the proximity of remediation;
- c) the management of risks relative to any existing contamination;
- d) the ground water monitoring plan or corrective action report;
- e) the appropriateness of the remedial methodology selected as a basis for the demonstration of protectiveness and correct action for the methodology adopted by a nationally recognized entity such as American Society for Testing and Materials (ASTM), or an equivalent methodology shall be acceptable for use as a basis for the demonstration of protectiveness;
- f) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- g) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- h) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- i) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- j) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- k) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- l) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- m) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- n) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- o) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- p) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- q) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- r) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- s) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- t) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- u) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- v) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- w) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- x) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- y) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.
- z) For sites requiring High Priority corrective action or for which the owner or operator has elected to conduct corrective action pursuant to Sections 732.398(f), 732.400(b) or 732.400(f) of this Part, if the owner or operator does not elect to propose remediation objectives pursuant to subsection (f) above, the owner or operator shall use remediation objectives as applicable based on Appendix B of this Part. Where indicator contaminants based on mixtures or degradation products have been designated by the Agency pursuant to Section 732.398 of this Part, the Agency shall determine remediation objectives for the site by the Agency.

(Source: Amended at 21 Ill. Reg. 3671, effective 1/1/11)

## Section 732.409 Groundwater Monitoring and Corrective Action Completion Reports

- a) Within 30 days after completing the performance of a "Low Priority" groundwater monitoring plan or High Priority corrective action, the owner or operator shall submit to the Agency a groundwater monitoring completion report or a corrective action completion report.
- b) The "Low Priority" groundwater monitoring completion report shall include, but not be limited to, a narrative describing the implementation and completion of all elements of the groundwater monitoring plan and the procedures used for collection and analysis of samples, analytical results in tabular form, actual analytical results, laboratory certification and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the

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- requirements of the Act and regulations have been satisfied and that no further remediation is required at the site.
- 2) The "High Priority" corrective action completion report shall include, but not be limited to, a narrative and timetable describing the implementation and completion of all elements of the corrective action plan and the procedures used for the collection and analysis of samples, analytical results, actual analytical results, laboratory certification, site logs, well logs and any other information or documentation relied upon by the Licensed Professional Engineer in reaching the conclusion that the requirements of the Act and regulations have been satisfied and that no further remediation is required at the site. A "High Priority" corrective action completion report shall demonstrate the following:

- A) For sites submitting a site classification report under Section 732.302:
- i) Applicable indicator contaminant groundwater objectives are not exceeded at the property boundary line or 200 feet from the UST system, whichever is less, as a result of the release of petroleum for any indicator contaminant identified during the groundwater investigation;
- ii) The release of petroleum does not threaten human health or human safety due to the presence or migration, through natural or manmade pathways, of petroleum in concentration sufficient to harm human health or human safety or to cause explosions in basements, crawl spaces, utility conduits, storm or sanitary sewers, vaults or other confined spaces;
- iii) The release of petroleum does not threaten any surface water body; and
- iv) The release of petroleum does not threaten any potable water supply.
- B) For sites submitting a site classification completion report under Section 732.312, the concentrations of applicable indicator contaminants at the site shall not exceed the levels developed under Section 732.409 for any applicable route not excluded from further consideration under Section 732.312.
- b) The applicable report shall be submitted on forms prescribed and provided by the Agency or a smaller-format-containing-the-name information, shall be signed by the owner or operator, and shall be accompanied by a certification from a Licensed Professional Engineer

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that the information presented in the applicable report is accurate and complete, that groundwater monitoring or corrective action have been completed in accordance with the requirements of the Act and this Subpart D, and that no further remediation is required at the site.

c) The Agency shall have the authority to review and approve, reject or require modification of any report submitted pursuant to this Section in accordance with the procedures contained in Subpart E of this Part.

(Source: Amended at 21 Ill. Reg. 3617, effective

## Section 732.410 "No Further Remediation" Letter (Repealed)

- a) Upon approval by the Agency or by operation of law of a "No Further Remediation" letter, the Agency shall issue a "Flow Priority" groundwater monitoring report to the Agency or a "High Priority" corrective action monitoring report to the Agency. The Agency shall issue to the owner or operator a "No Further Remediation" letter. The owner or operator shall have the legal effect prescribed in Section 57.18 of the Act. The "No Further Remediation" letter shall be denied if the Agency rejects or requires modification of the applicable report.
- b) The Agency shall have 180 days from the date of receipt of a complete report to issue a "No Further Remediation" letter and may include the "No Further Remediation" letter as part of the notification of approval of the applicable report in accordance with Subpart B of this Part.
- c) An applicable report is approved by operation of law pursuant to Subpart B of this Part and the notification of approval is not received from the Agency or the notification of approval prescribed by Section 57.18 of the Act shall become effective by operation of law.
- d) The notice of denial of a "No Further Remediation" letter by the Agency may be included with the notification of rejection or modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.

(Source: Repealed at 21 Ill. Reg. 3617, effective

## SUBPART E: SELECTION AND REVIEW PROCEDURES FOR PLANS AND REPORTS

## Section 732.501 Submittal of Plans or Reports

All plans or reports shall be made on forms prescribed and provided by the Agency or in a similar format containing the same information. Plans or reports shall be mailed or delivered to the address designated by the Agency.

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The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.

(Source: Amended at 21 Ill. Reg. 3617, effective

## Section 732.502 Completeness Review

- a) The Agency shall review for completeness all plans submitted pursuant to this Part 732. The completeness review shall be sufficient to determine whether all information and documentation required by the Agency form for the particular plan are present. The review shall not be used to determine the technical sufficiency of a particular plan or of the information or documentation submitted along with the plan.
- b) The Agency shall have 45 days from the receipt of a plan to finish the completeness review. If the completeness review finds that the plan is complete, the Agency shall so notify the owner or operator in writing and proceed, where appropriate, to approval, rejection or modification of the substantive portions of the plan. If the completeness review finds that the plan is incomplete, the Agency shall notify the owner or operator in writing. The notification shall include an explanation of the specific type of information or documentation that the Agency deems necessary to complete the plan.
- 1) The Agency may, to the extent consistent with Agency deadlines, correct deficiencies prior to a final determination on completeness.
- 2) The Agency shall mail notice of incompleteness by registered or certified mail. Post marked with a date stamp and with return receipt requested. The decision shall be deemed to have taken place on the post marked date that such notice is mailed.
- 3) All time limits for Agency final action on a plan or report shall be calculated from the date the Agency receives a plan or report. Receipt of an amended plan or report, after a notice of incompleteness, shall restart all time limits for Agency final action on that plan or report.
- c) Any budget plan submitted must be preceded or accompanied by an associated technical plan in order for the budget plan to be deemed complete.
- d) The failure of the Agency to notify an owner or operator within 45 days that a plan is either complete or incomplete shall result in the plan being deemed complete by operation of law. Any action by the Agency pursuant to this Section shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for in the review of permit decisions in Section 40 of the Act.

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(Source: Amended at 21 Ill. Reg. 3617 effective 1/1/11)

## Section 732.503 Full Review of Plans or Reports

a) In addition to the completeness review for plans conducted pursuant to Section 732.502, the Agency may conduct a full review of plans or reports selected in accordance with the requirements of Section 732.504. A full review may include any or all technical or financial information, or both, relied upon by the owner or operator or Licensed Professional Engineer in developing the plan or report selected for review. The full review also may include the review of any other plans or reports submitted in conjunction with the site.

b) The Agency shall have the authority to approve, reject or require modification of any plan or report that has been given a full review. The Agency shall notify the owner or operator in writing of its final action on any such plan or report. Except as provided in subsections (c) and (d) of this Section below, if the Agency fails to notify the owner or operator of its final action on a plan or report within 120 days after receipt of the plan or report, the owner or operator may deem the plan or report rejected approved by operation of law, except in the case of 20 day, 45 day or free product reports, in which case no notification is necessary. If the Agency rejects a plan or report or requires modifications, the written notification shall contain the following information, as applicable:

- 1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;
  - 2) An explanation of the Sections of the Act or regulations that may be violated if the plan or report is approved; and
  - 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the plan or report is approved.
- c) For "High Priority" corrective action plans submitted by owners or operators not seeking reimbursement from the Fund, the Agency may delay final action on such plans until 120 days after it receives the corrected action completion report required pursuant to Section 732.502 of this Act.
- d) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete plan or report by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 60 days.
- e) The Agency shall mail notices of final action on plans or reports by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.
- f) Any action by the Agency to reject or require modification, or rejection by failure to act, of a plan or report shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40

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of the Act. If the any owner or operator elects may elect to accept modifications required by the Agency rather than appeal, the owner or operator submitting the revised plan or report shall be submitted to the Agency within 30 days after the receipt of the Agency's written notification. If the owner or operator elects to submit the plan or report to the Board filed with the report submitted to the Agency or no appeal to the Board filed with the report submitted by the Agency, the plan or report shall be deemed approved by operation of law. If any plan or report is rejected by the owner or operator may either resubmit the plan or report to the Board or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

## g) Notification of Selection for Full Review

1) Owners or operators submitting plans shall be notified by the Agency within 60 days from the date the plan is deemed complete. If the plan has not been received whether or not the plan has been selected for full review in accordance with Section 732.504 of this Part, failure of the Agency to so notify the owner or operator shall mean that the plan has been selected for full review. Notification or non-notification by the Agency that the plan has not been selected for full review shall constitute approval of the plan by operation of law.

2) Owners or operators submitting reports shall be notified by the Agency within 60 days after the receipt of the report. If the report has not been received whether or not the report has been selected for full review in accordance with Section 732.504 of this Part, except in the case of 20 day, 45 day or free product reports, in which case no notification of selection is necessary. Failure of the Agency to so notify the owner or operator shall mean that the report has been selected for full review. Notification or non-notification by the Agency that the report has not been selected for full review shall constitute approval of the report by operation of law.

3) Notice shall be sent and the date of notification shall be computed in accordance with subsection (e) of this Section above. In accordance with Sections 732.306 and 732.406 of this Part, upon the approval of a report or plan by the Agency or by operation of law, the Agency shall include in the final notice to the owner or operator a statement of whether or not the Agency has sufficient resources in order to immediately commence the approved measures.

(Source: Amended at 21 Ill. Reg. 3617 effective 1/1/11)

SUBPART F: PAYMENT OR REIMBURSEMENT

## Section 732.601 Applications for Payment

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- a) An owner or operator seeking payment from the Fund shall submit to the Agency an application for payment on forms prescribed and provided by the Agency or in a similar format containing the same information. The owner or operator may submit an application for partial payment or final payment for materials, activities or services contained in an approved budget plan. An application for payment also may be submitted for materials, activities or services for early action conducted pursuant to Subpart B of this Part and for which no budget plan is required.
- b) A complete application for payment shall consist of the following elements:
- 1) A certification from a Licensed Professional Engineer acknowledged by the owner or operator that the work performed has been approved by the Agency or by operation-of-law, or, for early action activities, in accordance with Subpart B;
  - 2) A statement of the amount approved in the corresponding budget plan and the amount actually sought for payment along with a certified statement by the owner or operator that the amount so sought has been expended in conformance with the elements of a budget plan approved by the Agency or by operation-of-law;
  - 3) A copy of the OSM or Agency eligibility and deductibility determination;
  - 4) Proof that approval of the payment requested will not exceed the limitations set forth in the Act and Section 732.604 of this Part;
  - 5) A federal taxpayer identification number and legal status disclosure certification;
  - 6) A Private Insurance Coverage form; and
  - 7) A copy of the Agency's Business License.
- c) Applications for payment shall be delivered to the address designated by the Agency. The Agency's record of the date of receipt shall be deemed conclusive unless a contrary date is proven by a dated, signed receipt from certified or registered mail.
- d) Applications for partial or final payment may be submitted no more frequently than once every 90 days.
- e) Except for applications for payment for costs of early action conducted pursuant to Subpart B of this Part, in no case shall the Agency review an application for payment unless there is an approved budget plan on file corresponding to the application for payment.
- f) In no case shall the Agency authorize payment to an owner or operator in an amount greater than the amount approved by the Agency or by operation-of-law in a corresponding budget plan. Revised cost estimates or increased costs resulting from revised procedures must be submitted to the Agency for review in accordance with Subpart B of this Part using amended budget plans in accordance with Sections 732.605(a) or 732.605(e) of this Part.
- g) Applications for payment of costs associated with site classification

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may not be submitted prior to approval or modification of the site classification completion report.

(Source: Amended at 21 Ill. Reg. 3617.03 effective 3/6/97)

## Section 732.602 Review of Applications for Payment

- a) The Agency shall conduct a review of any application for payment submitted pursuant to this Part 732. Each application for payment shall be reviewed to determine whether the application contains all the elements and supporting documentation required by Section 732.601(b) of this Part and whether the amounts sought for payment have been certified in accordance with Section 732.601(b)(2) of this Part as equal to or less than the amounts approved in the corresponding budget plan. Any action by the Agency pursuant to this subsection shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act.
- b) The Agency may conduct a full review of any application for payment:
- 1) If the amounts sought for payment exceed the amounts approved in the corresponding budget plan;
  - 2) If the Agency has reason to believe that the application for payment is fraudulent; or
  - 3) If the application for payment includes costs for early action activities conducted pursuant to Subpart B of this Part and either of the following circumstances exist:
    - A) The application for payment is solely for early action costs that have not been approved as part of a prior budget plan; or
    - B) The application for payment includes early action costs that have not been approved as part of a prior budget plan, except that only the portion of the application for the unapproved early action costs may be given a full review.
  - c) When conducting a full review of any application for payment, the Agency may require the owner or operator to submit a full accounting supporting all claims as provided in subsection (d) of this Section below.
  - d) A full review of an application for payment shall be sufficient to determine which line items contained in the application for payment have caused the application for payment to exceed the corresponding approved budget plan pursuant to subsection (b)(1) of this Section above, which line items, if any, are ineligible for payment pursuant to Subsection (b)(2) or (b)(3) of this Section above, and whether there is sufficient documentation to demonstrate that the line items are in accordance with the Agency or by operation-of-law. A full review may include review of any or all elements and supporting documentation relied upon by the

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owner or operator in developing the application for payment, including but not limited to a review of invoices or receipts supporting all claims. The full review also may include the review of any plans or reports previously submitted for the site to ensure that the application for payment is consistent with work proposed and actually performed in conjunction with the site.

- e) Following a review, the Agency shall have the authority to approve, deny, or require modification of the application for payment or to require the owner or operator to submit additional information or to require the owner or operator to submit a revised application for payment. The Agency shall notify the owner or operator in writing of its final action on any such application for payment. Except as provided in subsection (f) of this Section below, if the Agency fails to notify the owner or operator of its final action on an application for payment within 120 days after the receipt of a complete application for payment, the owner or operator may deem the application for payment as approved by operation of law. If the Agency denies payment for an application for payment or for a portion thereof or requires modification, the written notification shall contain the following information, as applicable:

- 1) An explanation of the specific type of information, if any, that the Agency needs to complete the full review;
- 2) An explanation of the Sections of the Act or regulations that may be violated if the application for payment is approved; and
- 3) A statement of specific reasons why the cited Sections of the Act or regulations may be violated if the application for payment is approved.

- f) An owner or operator may waive the right to a final decision within 120 days after the submittal of a complete application for payment by submitting written notice to the Agency prior to the applicable deadline. Any waiver shall be for a minimum of 30 days.

- g) The Agency shall mail notices of final action on applications for payment by registered or certified mail, post marked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the post marked date that such notice is mailed.

- h) Any action by the Agency to deny payment for an application for payment or portion thereof or to require modification shall be subject to appeal to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If the Any owner or operator elects to appeal, incorporate modifications required by the Agency rather than appeal, and submit a revised application for payment within 35 days after the receipt of the Agency's final action, the application for payment shall be deemed to have been approved by the Agency and payment shall be authorized in the amount approved.

(Source: Amended at 21 Ill. Reg. 3617, effective

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## Section 732.603 Authorization for Payment; Priority List

- a) Within 60 days after notification of an owner or operator that the application for payment or a portion thereof has been approved by the Agency or by operation of law, the Agency shall forward to the Office of the State Comptroller in accordance with subsection (c) or (d) of this Section a voucher in the amount approved. If the owner or operator has filed an appeal with the Agency, the Agency shall file a decision on the application for payment, the Agency shall have 60 days from the final resolution of the appeal to forward to the Office of the State Comptroller a voucher in the amount ordered as a result of the appeal. Notwithstanding the time limits imposed by this Section, the Agency shall not forward vouchers to the Office of the State Comptroller until sufficient funds are available to issue payment.
- b) Any deductible, as determined by the OSGM of the Agency, shall be subtracted from any amount approved for payment by the Agency or by operation of law.

- c) For owners or operators who have deferred site classification or corrective action in accordance with Section Sections 732.306 or 732.406 of this Part, payment shall be authorized from funds encumbered pursuant to Section Sections 732.306(a)(4) or 732.406(a)(4) of this Part upon approval of the application for payment by the Agency or by operation of law.

- d) For owners or operators not electing to defer site classification or corrective action in accordance with Section Sections 732.306 or 732.406 of this Part, the Agency shall form a priority list for payment for the issuance of vouchers pursuant to subsection (a) of this Section above.

- 1) All such applications for payment shall be assigned a date that is the date upon which the complete application for partial or final payment was received by the Agency. This date shall determine the owner's or operator's priority for payment in accordance with subsection (d)(2) of this Section below, with the earliest dates receiving the highest priority.

- 2) Once payment is approved by the Agency or by operation of law or ordered by the Board or courts, the application for payment shall be assigned priority in accordance with subsection (d)(1) of this Section above. The assigned date shall be the only factor determining the priority for payment for those applications approved for payment.

(Source: Amended at 21 Ill. Reg. 3617, effective

Section 732.604 Limitations on Total Payments



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## a) Limitations per occurrence:

1) The Agency shall not approve any payment from the fund to pay an owner or operator for costs of corrective action incurred by such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)

2) The Agency shall not approve any payment from the fund to pay an owner or operator for costs of indemnification of such owner or operator in an amount in excess of \$1,000,000 per occurrence. (Section 57.8(g) of the Act)

## b) Aggregate limitations:

1) Notwithstanding any other provision of this Part 732, the Agency shall not approve payment to an owner or operator from the fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois:

AMOUNT	NUMBER OF TANKS
\$1,000,000±289,889	FEWER THAN 101
\$2,000,000	101 OR MORE

2) Costs incurred in excess of the aggregate amounts set forth in subsection (b)(1) of this Section shall not be eligible for payment from the fund for purposes of subsection (b) of this Section. Requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator. (Section 57.8(d) of the Act)

d) For purposes of subsection (b) of this Section, owner or operator includes:

- 1) any subsidiary, parent, or joint stock company of the owner or operator; and
- 2) any company owned by any parent, subsidiary, or joint stock company of the owner or operator. (Section 57.8(d) of the Act)

(Source: Amended at 21 Ill. Reg. 3617, effective 01-01-82)

## Section 732.605 Eligible Costs

a) Types of costs that may be eligible for payment from the fund include those for corrective action activities and for materials or services provided or performed in conjunction with corrective action activities. Such activities and services may include but are not limited to:

- 1) Early action activities conducted pursuant to Subpart B of this Part;

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## 2) Engineering oversight services;

3) Remedial investigation and design;

4) Feasibility studies;

5) Laboratory services necessary to determine site classification and whether the established corrective action objectives have been met;

6) Investigation and operation of groundwater investigation and groundwater monitoring wells;

7) The removal, treatment, transportation and disposal of soil contaminated by petroleum at levels in excess of the established corrective action objectives;

8) The removal, treatment, transportation and disposal of water contaminated by petroleum at levels in excess of the established corrective action objectives;

9) The placement of clean backfill to grade to replace excavated soil contaminated by petroleum at levels in excess of the established corrective action objectives;

10) Groundwater corrective action systems;

11) Alternative technology;

12) Recovery of free phase petroleum from groundwater;

13) The removal and disposal of any UST if a release of petroleum from the UST was identified and EPA was notified prior to its removal;

14) Costs incurred as a result of a release of petroleum because of vandalism, theft or fraudulent activity by a party other than an owner, operator or agent of an owner or operator;

15) Engineering costs associated with seeking payment or reimbursement from the fund including, but not limited to, completion of an application for partial or final payment;

16) Costs associated with obtaining an Eligibility and Deductibility Determination from the OSGM or the Agency;

17) Costs for destruction and replacement of concrete, asphalt and paving to the extent necessary to conduct corrective action and if the destruction and replacement has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer;

18) The destruction or dismantling and reassembly of above grade structures in response to a release of petroleum if such activity has been certified as necessary to the performance of corrective action by a Licensed Professional Engineer. For purposes of this section, destruction, dismantling or reassembly of above grade structures includes costs associated with the replacement of pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies; and

19) Preparation of site classification plans (including physical soil classification and groundwater investigation plans) and associated budget plans, site classification reports, groundwater monitoring plans and associated budget plans, groundwater



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monitoring completion reports, "High Priority" corrective action plans and associated budget plans, and "High Priority" corrective action completion reports.

- b) An owner or operator may submit a budget plan or application for partial or final payment that includes an itemized accounting of costs associated with the activities, materials or services not identified in subsection (a) of this Section above if the owner or operator submits detailed information demonstrating that the activities, materials or services not identified in subsection (a) of this Section above are essential to the completion of minimum corrective action requirements of the Act and this Part 732.

(Source: Amended at 21 Ill. Reg. 3617 effective 3-1-79)

## Section 732.606 Ineligible Costs

Costs ineligible for payment from the fund include but are not limited to:

- a) Costs for the removal, treatment, transportation, and disposal of more than four feet of fill material from the outside dimensions of the USF, as set forth in Appendix C of this Part, during early action activities conducted pursuant to Section 732.202(f), and costs for the replacement of contaminated fill materials with clean fill materials in excess of the amounts set forth in Appendix C of this Part during early action activities conducted pursuant to Section 732.202(f);
- b) Costs incurred as a result of vandalism, theft or fraudulent activity by the owner or operator or agent of the owner or operator, including the creation of spills, leaks or releases;
- c) Costs associated with the replacement of above grade structures such as pumps, pump islands, buildings, wiring, lighting, bumpers, posts or canopies, including but not limited to those structures destroyed or damaged during corrective action activities;
- d) Costs of corrective action or indemnification incurred by an owner or operator prior to July 28, 1989 (Section 57.8(j) of the Act);
- e) Costs associated with the procurement of a generator identification number;
- f) Legal defense costs including legal costs for seeking payment under these regulations unless the owner or operator prevails before the Board and the Board authorizes payment of legal fees (Section 57.8(l) of the Act);
- g) Purchase costs of non-expendable materials, supplies, equipment or tools whose reasonable rate may be charged for the usage of such materials, equipment or tools;
- h) Costs associated with activities that violate any provision of the Act or Board or Agency regulations;
- i) Costs associated with investigative action, preventive action, corrective action, or enforcement action taken by the State of

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Illinois if the owner or operator failed, without sufficient cause, to respond to a release or substantial threat of a release upon, or in accordance with, a notice issued by the Agency pursuant to Section 732.105 of this Part and Section 57.12 of the Act;

- k) Costs for removal, disposal or abandonment of a USF if the tank was removed or abandoned, or permitted for removal or abandonment, by the USF before the owner or operator provided notice to IDMA of a release of petroleum;
- l) Costs associated with the installation of new USFs and the repair of existing USFs;
- m) Costs exceeding those contained in a budget plan or amended budget plan approved by the Agency or by operation of law;
- n) Costs of corrective action or indemnification incurred before providing notification of the release of petroleum to IDMA in accordance with Section 732.202 of this Part;
- o) Costs for corrective action activities and associated materials or services exceeding the minimum requirements necessary to comply with the Act;
- p) Costs associated with improperly installed sampling or monitoring wells;
- q) Costs associated with improperly collected, transported or analyzed laboratory samples;
- r) Costs associated with the analysis of laboratory samples for constituents other than applicable indicator contaminants or groundwater objectives, activities, services or materials unless accompanied by letter from OSPM of the Agency confirming eligibility and deductibility in accordance with Section 57.9 of the Act;
- s) Interest or finance costs charged as direct costs;
- t) Insurance costs charged as direct costs;
- u) Indirect corrective action costs for personnel, materials, service or equipment charged as direct costs;
- v) Costs associated with the compaction and density testing of backfill material;
- w) Costs associated with sites that have not reported a release to IDMA or are not required to report a release to IDMA;
- x) Costs related to activities, materials or services not necessary to stop, minimize, eliminate, or clean up a release of petroleum or its effects in accordance with the minimum requirements of the Act and regulations;
- y) Costs incurred after completion of early action activities in accordance with Subpart B by owners or operators choosing, pursuant to Section 732.390(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;
- z) Costs incurred after completion of site classification activities in accordance with Subpart C by owners or operators choosing, pursuant to Section 732.400(b) of this Part, to conduct remediation sufficient to satisfy the remediation objectives;

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- b) Costs of alternative technology that exceed the costs of conventional technology; and
- c) Costs for investigating activities and related services or materials for developing a "high priority" corrective action plan that are unnecessary or inconsistent with generally accepted engineering practices or unreasonable costs for justifiable activities, materials or services.
- d) Costs for preparing site classification plans and associated budget plans under Section 732.309, or to perform site classification under Section 732.307, or to prepare site classification completion reports under Section 732.309, for sites where owners or operators have elected to classify under Section 732.312.
- ee) Costs to prepare site classification plans and associated budget plans under Section 732.312, to perform site classification under Section 732.312, or to prepare site classification completion reports under Section 732.312, for sites where owners or operators have performed classification activities under Sections 732.305, 732.307, or 732.309.
- ff) Costs requested that are based on mathematical errors.
- gg) Costs that lack supporting documentation.
- hh) Costs proposed as part of a budget plan that are unreasonable.
- ii) Costs incurred during early action that are unreasonable.
- jj) Costs incurred at a site that has entered the Site Remediation Program under Title XVI and 23 Ill. Adm. Code 407 and 408.
- kk) Costs for site classification, remediation, or receipt of a No Further Remediation Letter for the occurrence for which the No Further Remediation Letter was received.

(Source: Amended at 21 Ill. Reg. 8617, effective 1/1/87)

## Section 732.608 Apportionment of Costs

- a) The Agency may apportion payment of costs for corrective action plans for sites classified as High Priority if:
- 1) The owner or operator was deemed eligible to access the fund for payment of corrective action costs for some, but not all, of the underground storage tanks at the site; and
  - 2) The owner or operator failed to justify all costs attributable to each underground storage tank at the site. (Section 57.8(a) of the Act.)
- b) The Agency will determine, based on volume of number of tanks, which method of apportionment will be most favorable to the owner or operator. The Agency will notify the owner or operator of such determination in writing. Upon notification from the Agency of an apportionment of costs pursuant to this Section, the owner or operator shall within 30 days notify the Agency whether the apportionment shall be based upon the total number of all the USTs at the site or the total volume of all of the USTs at the site.

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(Source: Amended at 21 Ill. Reg. 8617, effective 1/1/87)

## Section 732.612 Determination and Collection of Excess Payments

- a) If, for any reason, the Agency determines that an excess payment has been paid from the Fund, the Agency may take steps to collect the excess amount pursuant to subsection (c) of this Section below.
- 1) Upon identifying an excess payment, the Agency shall notify the registered owner/operator receiving the excess payment by certified or registered mail, requesting the amount of the excess payment.
  - 2) The notification letter shall state the amount of the excess payment and the basis for the Agency's determination that the payment is in error.
  - 3) The Agency's determination of an excess payment shall be subject to appeal to the Board in the manner provided for the review of permit decisions in Section 40 of the Act.
  - b) An excess payment from the Fund includes, but is not limited to:
    - 1) Payment for a non-corrective action cost;
    - 2) Payment in excess of the limitations on payments set forth in Sections 732.604 and 732.607 of this Part;
    - 3) Payment received through fraudulent means;
    - 4) Payment calculated on the basis of an arithmetic error;
    - 5) Payment calculated by the Agency in reliance on incorrect information.
  - c) Excess payments may be collected using any of the following procedures:
    - 1) Upon notification of the determination of an excess payment in accordance with subsection (a) of this Section, the Agency may attempt to negotiate a payment schedule with the owner or operator. Nothing in this subsection (c)(1) of this Section shall prohibit the Agency from exercising at any time its options at subsections (c)(2) or (c)(3) of this Section below or any other collection methods available to the Agency by law.
    - 2) If an owner or operator submits a subsequent claim for payment after previously receiving an excess payment from the Fund, the Agency may deduct the excess payment amount from any subsequently approved payment amount. If the amount subsequently approved is insufficient to recover the entire amount of the excess payment, the Agency may use the procedures in this Section or any other collection methods available to the Agency by law to collect the remainder.
    - 3) The Agency may deem an excess payment amount to be a claim or debt owed the Agency and the Agency may use the Comptroller's Setoff System for collection of the claim or debt in accordance with Section 10.05 of the State Comptroller Act [15 ILCS 405/10.05].

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(Source: Amended at 21 Ill. Reg. 3617, effective 11/1/83)

## SUBPART G: NO FURTHER REMEDIATION LETTERS AND RECORDING REQUIREMENTS

## Section 732.700 General

Subpart G provides the procedures for issuance of No Further Remediation Letters under Title XVI and this Part. Subpart G also sets forth the recording requirements and the circumstances under which the letter may be voidable.

(Source: Added at 21 Ill. Reg. 3617, effective 11/1/83)

## Section 732.701 Issuance of a No Further Remediation Letter

a) Upon approval by the Agency of a No Further Action site classification report, a Low Priority groundwater monitoring completion report, or a High Priority corrective action completion report, the Agency shall issue to the owner or operator a No Further Remediation Letter. The No Further Remediation Letter shall have the legal effect prescribed in Section 57.10 of the Act. The No Further Remediation Letter shall be denied if the Agency rejects or requires modification of the applicable report.

b) The Agency shall have 120 days from the date of receipt of a complete report to issue a No Further Remediation Letter and may include the No Further Remediation Letter as part of the notification of approval of the applicable report in accordance with Subpart E of this Part. If the Agency fails to send the No Further Remediation Letter within 120 days, it shall be deemed denied by operation of law.

c) The notice of denial of a No Further Remediation Letter by the Agency shall be with the notification of modification of the applicable report. The reasons for the denial shall be stated in the notification. The denial shall be considered a final determination appealable to the Board within 35 days after the Agency's final action in the manner provided for the review of permit decisions in Section 40 of the Act. If any request for a No Further Remediation Letter is denied by operation of law, in lieu of an immediate appeal to the Board the owner or operator may either resubmit the request and applicable report to the Agency or file a joint request for a 90 day extension in the manner provided for extensions of permit decision in Section 40 of the Act.

d) The Agency shall mail the No Further Remediation Letter by registered or certified mail, postmarked with a date stamp and with return receipt requested. Final action shall be deemed to have taken place on the postmarked date that the letter is mailed.

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(Source: Added at 21 Ill. Reg. 3617, effective 11/1/83)

## Section 732.702 Contents of a No Further Remediation Letter

A No Further Remediation Letter issued pursuant to this Part shall include all of the following:

- An acknowledgment that the requirements of the applicable report were satisfied;
- A description of the location of the affected property by adequate legal description or by reference to a plat showing its boundaries;
- The remediation objectives determined in accordance with 35 Ill. Adm. Code 732 and any land use limitation, as applicable, required by 35 Ill. Adm. Code 742 as a condition of the remediation objectives;
- A statement that the Agency's issuance of the No Further Remediation Letter signifies that the remediation objectives have been achieved.

1) All corrective action requirements under Title XVI and Part 732 applicable to the occurrence have been complied with;

2) all corrective action concerning the remediation of the occurrence has been completed; and

3) no further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment. (Section 57.10(c) of the Act)

e) The prohibition under Section 732.703(c) against the use of any site in a manner inconsistent with any applicable land use limitation, without additional appropriate remedial activities;

f) A description of any approved preventive, engineering, and institutional controls identified in the plan or report, and notification that failure to maintain the controls in full compliance with the terms of the plan or report may result in voidance of the No Further Remediation Letter;

g) The recording obligations pursuant to Section 732.703 of this Part;

h) The recording obligations in the recorded land use pursuant to Subpart 732.704(c) of this Part;

i) Notification that further information regarding the site can be obtained from the Agency through a request under the Freedom of Information Act (5 ILCS 140); and

j) Any other provisions agreed to by the Agency and the owner or operator.

(Source: Added at 21 Ill. Reg. 3617, effective 11/1/83)

## Section 732.703 Duty to Record a No Further Remediation Letter

a) An owner or operator receiving a No Further Remediation Letter from the Agency pursuant to this Subpart G shall submit the letter to the Office of the Recorder or the Registrar of Titles of the county in

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which the site is located within 45 days of receipt of the letter. The letter shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title.

- b) A No Further Remediation Letter shall not become effective until officially recorded in accordance with subsection (a) of this Section. The owner or operator shall obtain and submit to the Agency a certified, or otherwise accurate and official copy of the letter as recorded.

- c) At no time shall any site for which a land use limitation has been imposed as a result of corrective action under this Part be used in a manner inconsistent with the land use limitation unless further investigation or remedial action has been conducted that documents the attainment of the site's designated use and a new letter is obtained and recorded in accordance with this Part.

(Source: Added at 21 Ill. Reg. 6617 effective

## Section 732.704 Voidance of a No Further Remediation Letter

- a) The No Further Remediation Letter shall be voidable if site activities are not carried out in full compliance with the provisions of this Part, and 35 Ill. Adm. Code 742 where applicable, or the remediation objectives upon which the issuance of the No Further Remediation Letter was based. Specific acts or omissions that may result in voidance of the No Further Remediation Letter include, but shall not be limited to:

- 1) Any violations of institutional controls or land use restrictions applicable;
- 2) An illegal transfer of the generator or any subsequent transferee to operate and maintain a corrective, preventive, engineering and institutional controls or comply with a groundwater monitoring plan, if applicable;
- 3) Obtaining the No Further Remediation Letter by fraud or misrepresentation;
- 4) Subsequent discovery of indicator contaminants related to the occurrence upon which the No Further Remediation Letter was based which:

- A) were not identified as part of the investigative or remedial activities upon which the issuance of the No Further Remediation Letter was based;

- B) results in the following:

- 1) the site no longer satisfying the criteria of a No Further Action site classification;
- 2) the site no longer satisfying the criteria of a Low Priority site classification;
- 3) failing to meet the remedial objectives established for a High Priority site; and

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- 5) Failure to record the No Further Remediation Letter in accordance with Section 732.703; or
- 6) Disturbance or removal of contamination left in place under an approved plan.

- b) If the Agency seeks to void a No Further Remediation Letter, it shall provide notice to the current title holder of the site and the owner or operator at his or her last known address.

- 1) The notice shall specify the cause for the voidance and describe the facts in support of the cause.

- 2) The Agency shall mail Notices of Voidance by registered or certified mail, date stamped with return receipt requested.

- 3) Within 30 days after receipt of the notice of voidance, the current title holder shall file a Notice of Appeal with the Agency. The No Further Remediation Letter shall be voided if the Agency's decision to void the letter is affirmed by the Board. The Agency's decision to the Board in the manner provided for the review of appeals in Section 40 of the Act.

- d) If the Board fails to take final action within 120 days, unless such time period is waived by the petitioner, the petition shall be deemed denied and the petitioner shall be entitled to an appellate court order pursuant to subsection (d) of Section 41 of the Act. The Agency shall have the burden of proof in such action.

- 1) If the Agency's action is appealed, the action shall not become effective until the appeal process has been exhausted and a final decision is reached by the Board or courts.

- A) Upon receiving a notice of appeal, the Agency shall file a Notice of Lis Pendens with the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The notice shall be filed in accordance with Illinois law so that it becomes a part of the chain of title for the site.

- B) If the Agency's action is not upheld on appeal, the Notice of Lis Pendens shall be removed in accordance with Illinois law within 45 days after receipt of the final decision of the Board or the courts.

- 2) If the Agency's action is not appealed or is upheld on appeal, the Agency shall submit the Notice of Voidance to the Office of the Recorder or the Registrar of Titles for the county in which the site is located. The Notice shall be filed in accordance with Illinois law so that it forms a permanent part of the chain of title for the site.

(Source: Added at 21 Ill. Reg. 3617 effective

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Section 732. APPENDIX B Additional Parameters Groundwater-and-Soil Remediation  
Objective-Acceptable-Detection-Limits-(ADL)-and-Soil-Remediation-Methodology

- Volatiles**
1. Benzene
  2. Bromoform
  3. Carbon tetrachloride
  4. Chlorobenzene
  5. Chloroform
  6. Dichlorobromomethane
  7. 1,1-Dichloroethane
  8. 1,1,1-Dichloroethane
  9. cis-1,2-Dichloroethane
  10. trans-1,2-Dichloroethane
  11. Dichloromethane (Methylene chloride)
  12. 1,1,2-Trichloroethane
  13. 1,1,3-Trichloropropane
  14. 1,3-Dichloropropylene (cis + trans)
  15. Ethylbenzene
  16. Styrene

17. Toluene
18. 1,1,1-Trichloroethane
19. 1,1,2-Trichloroethane
20. Trichloroethylene
21. Vinyl chloride
22. Xylenes (total)

**Base/Neutrals**

1. Bis(2-chloroethyl)ether
2. Bis(2-chloroethyl)phthalate
3. 1,1-Dichloroethane
4. 1,4-Dichlorobenzene
5. Hexachlorobenzene
6. Hexachlorocyclopentadiene
7. n-Nitrosodipropylamine
8. n-Nitrosodiphenylamine
9. 1,2,4-Trichlorobenzene

**Polynuclear Aromatics**

1. Acenaphthene
2. Anthracene
3. Benzo(a)anthracene
4. Benzo(a)pyrene
5. Benzo(b)fluoranthene
6. Benzo(k)fluoranthene
7. Chrysene
8. Benzo(e)anthracene
9. Fluoranthene

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10. Fluorene
11. Indeno(1,2,3-cd)pyrene
12. Naphthalene
13. Pyrene

**Other Non-Carcinogenic PNAs (total)**

14. Acenaphthylene
15. Benzo(g,h,i)perylene
16. Phenanthrene

**Metals (total inorganic and organic forms)**

1. Arsenic
2. Barium
3. Cadmium
4. Chromium (total)
5. Cobalt
6. Lead
7. Mercury
8. Selenium

**Acids**

1. Pentachlorophenol
2. Phenol (total)
3. 2,4,6-Trichlorophenol

**Pesticides**

1. Aldrin
2. Alpha-BHC
3. Chlordane
4. DDD
5. DDE
6. 4,4'-DDE
7. Dieldrin
8. Endrin
9. Heptachlor
10. Heptachlor epoxide
11. Lindane (gamma-BHC)
12. Toxaphen

(Source: Amended at 21 Ill. Reg. 3617 effective



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Section 732. TABLE A. Groundwater and Soil Remediation Objectives (Repealed)

Parameters	Objectives	Soil mg/kg	Groundwater mg/l	ASB <sup>1</sup> mg/kg	Soil mg/kg	Groundwater mg/l
<b>Volatiles</b>						
1-Benzene	-0.005					
2-Bromotorm	-0.001					
3-Carbon-tetrachloride	-0.005					
4-Chlorobenzene	-0.002					
5-Chlorotorm	-0.002					
6-Chlorobenzene	-0.002					
7-1,2-Dichloroethane	-0.005					
8-1,1-Dichloroethane	-0.007					
9-Cis-1,2-Dichloroethane	-0.01					
10-Trans-1,2-Dichloroethane	-0.005					
11-Bichloromethane	-0.005					
12-1,2-Dichloropropane	-0.001					
13-4-1,3-Dichloropropane	-0.001					
14-Trans-1,3-Dichloropropane	-0.001					
15-Ethylbenzene	-0.7					
16-Styrene	-0.1					
17-Tetrachloroethane	-0.005					
18-Toluene	-1.0					
19-1,1,1-Trichloroethane	-0.2					
20-1,1,2-Trichloroethane	-0.005					
21-Trichloroethene	-0.005					
22-1,1,2,2-Tetrachloroethane	-0.2					
23-1,1,2,2-Tetrachloroethane	-1.0					
24-DECM (total)	11.95					
<b>Base/Neutrals</b>						
1-3-1,2-Dichloroethyl ether	-0.01					
2-3-1,2-Dichloroethyl ether	-0.006					
3-1,2-Dichlorobenzene	-0.6					
4-1,2-Dichlorobenzene	-0.075					
5-Hexachlorobenzene	-0.0005					
6-Hexachlorocyclopentadiene	-0.05					
7-N-Nitrosod-n-propylamine	-0.01					
8-N-Nitrosodiphenylamine	-0.01					
9-1,2,4-Trichlorobenzene	-0.07					
<b>Polynuclear-Aromatics</b>						
1-Acrophene	-0.42					
2-Acrophene	-2.0					
3-Benzo(a)anthracene	-0.0013					
4-Benzo(a)pyrene	-0.0003					
5-Benzo(b)fluoranthene	-0.00018					

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6-Benzo(k)fluoranthene	-0.00037					
7-Chrysene	-0.0015					
8-Benzo(a,h)anthracene	-0.0003					
9-Fluoranthene	-0.20					
10-Fluorene	-0.00043					
11-Naphthalene	-0.00043					
12-Naphthalene	-0.00043					
13-Pyrene	-0.21					
14-Other						
Non-Carcinogenic						
PMAs (total)						
Acenaphthylene						
Benzo(a,h)pyrene						
Phenanthrene						
Metals (2)						
1-Arsenic	-0.05					
2-Barium	-2.0					
3-Cadmium	-0.005					
4-Chromium (total)	-0.1					
5-Lead	-0.0075					
6-Mercury	-0.002					
7-Selenium	-0.05					
Acids						
1-Pentachlorophenol	-0.001					
2-Phenol (total)	-0.1					
3-2,4,6-Trichlorophenol	-0.0064					
<b>Refractories</b>						
1-Aluminum	-0.0004					
2-Calcium	-0.0003					
3-Chloride	-0.002					
4-4,4'-BBB	-0.0004					
5-4,4'-BBB	-0.0011					
6-4,4'-BBB	-0.0012					
7-Bisphenol	-0.0002					
8-Endrin	-0.0004					
9-Heptachlor	-0.0004					
10-Heptachlor-epoxide	-0.0002					
11-Lindane (gamma-BHC)	-0.0002					
12-Toxaphene	-0.003					
<b>Polychlorinated-Biphenyls</b>						
1-Polychlorinated-Biphenyls (as Decachlorobiphenyl)	0.0005					



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- \* See 40 CFR 761.120 as incorporated by reference at Section 732-104, for US EPA-PCB Spill Cleanup Policy."

(1) Acceptable--Detection Limit-----West Methods for Evaluating Solid-Waste Physical/Chemical Methods--EPA Publication No. SW-846 and Methods for the Determination of Organic Compounds in Drinking Water--BPA-8557, EPA-600/4-89/039 as incorporated by reference at Section 732-104 of this Part must be used--For parameters where the specified objective is below the ABL the ABL shall serve as the objective until the US EPA Promulgates lower ABLs--When promulgated the new US EPA ABL or other specified objective, whichever is higher, shall apply--For other parameters the ABL must be below the specified cleanup objective

(2) For soils--based upon the concentration determined by the Method 1311 Society Characteristic Leaching Procedure--US EPA--at 40 CFR--611 Appendix II as incorporated by reference at Section 732-104 of this Part:

(Source: Repealed at 21 Ill. Reg. 3617, effective

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Section 732. TABLE B Soil Remediation Methodology: Model Parameter Values (Updated)

PARAMETER	DEFINITION (Unit)	MINIMUM VALUES
$S_1$	Source width-vertical plane (cm)	100 ft
$S_2$	Source width-horizontal plane (cm)	100 ft
$A_1$	Longitudinal dispersivity (cm)	100 ft
$A_2$	Transverse dispersivity (cm)	100 ft
$U_1$	Specific discharge (ft/day)	100 ft/day
$U_2$	Specific discharge (ft/day)	100 ft/day
$U_3$	Specific discharge (ft/day)	100 ft/day
$U_4$	Specific discharge (ft/day)	100 ft/day
$U_5$	Specific discharge (ft/day)	100 ft/day
$U_6$	Specific discharge (ft/day)	100 ft/day
$U_7$	Specific discharge (ft/day)	100 ft/day
$U_8$	Specific discharge (ft/day)	100 ft/day
$U_9$	Specific discharge (ft/day)	100 ft/day
$U_{10}$	Specific discharge (ft/day)	100 ft/day
$U_{11}$	Specific discharge (ft/day)	100 ft/day
$U_{12}$	Specific discharge (ft/day)	100 ft/day
$U_{13}$	Specific discharge (ft/day)	100 ft/day
$U_{14}$	Specific discharge (ft/day)	100 ft/day
$U_{15}$	Specific discharge (ft/day)	100 ft/day
$U_{16}$	Specific discharge (ft/day)	100 ft/day
$U_{17}$	Specific discharge (ft/day)	100 ft/day
$U_{18}$	Specific discharge (ft/day)	100 ft/day
$U_{19}$	Specific discharge (ft/day)	100 ft/day
$U_{20}$	Specific discharge (ft/day)	100 ft/day
$U_{21}$	Specific discharge (ft/day)	100 ft/day
$U_{22}$	Specific discharge (ft/day)	100 ft/day
$U_{23}$	Specific discharge (ft/day)	100 ft/day
$U_{24}$	Specific discharge (ft/day)	100 ft/day
$U_{25}$	Specific discharge (ft/day)	100 ft/day
$U_{26}$	Specific discharge (ft/day)	100 ft/day
$U_{27}$	Specific discharge (ft/day)	100 ft/day
$U_{28}$	Specific discharge (ft/day)	100 ft/day
$U_{29}$	Specific discharge (ft/day)	100 ft/day
$U_{30}$	Specific discharge (ft/day)	100 ft/day
$U_{31}$	Specific discharge (ft/day)	100 ft/day
$U_{32}$	Specific discharge (ft/day)	100 ft/day
$U_{33}$	Specific discharge (ft/day)	100 ft/day
$U_{34}$	Specific discharge (ft/day)	100 ft/day
$U_{35}$	Specific discharge (ft/day)	100 ft/day
$U_{36}$	Specific discharge (ft/day)	100 ft/day
$U_{37}$	Specific discharge (ft/day)	100 ft/day
$U_{38}$	Specific discharge (ft/day)	100 ft/day
$U_{39}$	Specific discharge (ft/day)	100 ft/day
$U_{40}$	Specific discharge (ft/day)	100 ft/day
$U_{41}$	Specific discharge (ft/day)	100 ft/day
$U_{42}$	Specific discharge (ft/day)	100 ft/day
$U_{43}$	Specific discharge (ft/day)	100 ft/day
$U_{44}$	Specific discharge (ft/day)	100 ft/day
$U_{45}$	Specific discharge (ft/day)	100 ft/day
$U_{46}$	Specific discharge (ft/day)	100 ft/day
$U_{47}$	Specific discharge (ft/day)	100 ft/day
$U_{48}$	Specific discharge (ft/day)	100 ft/day
$U_{49}$	Specific discharge (ft/day)	100 ft/day
$U_{50}$	Specific discharge (ft/day)	100 ft/day
$U_{51}$	Specific discharge (ft/day)	100 ft/day
$U_{52}$	Specific discharge (ft/day)	100 ft/day
$U_{53}$	Specific discharge (ft/day)	100 ft/day
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$U_{58}$	Specific discharge (ft/day)	100 ft/day
$U_{59}$	Specific discharge (ft/day)	100 ft/day
$U_{60}$	Specific discharge (ft/day)	100 ft/day
$U_{61}$	Specific discharge (ft/day)	100 ft/day
$U_{62}$	Specific discharge (ft/day)	100 ft/day
$U_{63}$	Specific discharge (ft/day)	100 ft/day
$U_{64}$	Specific discharge (ft/day)	100 ft/day
$U_{65}$	Specific discharge (ft/day)	100 ft/day
$U_{66}$	Specific discharge (ft/day)	100 ft/day
$U_{67}$	Specific discharge (ft/day)	100 ft/day
$U_{68}$	Specific discharge (ft/day)	100 ft/day
$U_{69}$	Specific discharge (ft/day)	100 ft/day
$U_{70}$	Specific discharge (ft/day)	100 ft/day
$U_{71}$	Specific discharge (ft/day)	100 ft/day
$U_{72}$	Specific discharge (ft/day)	100 ft/day
$U_{73}$	Specific discharge (ft/day)	100 ft/day
$U_{74}$	Specific discharge (ft/day)	100 ft/day
$U_{75}$	Specific discharge (ft/day)	100 ft/day
$U_{76}$	Specific discharge (ft/day)	100 ft/day
$U_{77}$	Specific discharge (ft/day)	100 ft/day
$U_{78}$	Specific discharge (ft/day)	100 ft/day
$U_{79}$	Specific discharge (ft/day)	100 ft/day
$U_{80}$	Specific discharge (ft/day)	100 ft/day
$U_{81}$	Specific discharge (ft/day)	100 ft/day
$U_{82}$	Specific discharge (ft/day)	100 ft/day
$U_{83}$	Specific discharge (ft/day)	100 ft/day
$U_{84}$	Specific discharge (ft/day)	100 ft/day
$U_{85}$	Specific discharge (ft/day)	100 ft/day
$U_{86}$	Specific discharge (ft/day)	100 ft/day
$U_{87}$	Specific discharge (ft/day)	100 ft/day
$U_{88}$	Specific discharge (ft/day)	100 ft/day
$U_{89}$	Specific discharge (ft/day)	100 ft/day
$U_{90}$	Specific discharge (ft/day)	100 ft/day
$U_{91}$	Specific discharge (ft/day)	100 ft/day
$U_{92}$	Specific discharge (ft/day)	100 ft/day
$U_{93}$	Specific discharge (ft/day)	100 ft/day
$U_{94}$	Specific discharge (ft/day)	100 ft/day
$U_{95}$	Specific discharge (ft/day)	100 ft/day
$U_{96}$	Specific discharge (ft/day)	100 ft/day
$U_{97}$	Specific discharge (ft/day)	100 ft/day
$U_{98}$	Specific discharge (ft/day)	100 ft/day
$U_{99}$	Specific discharge (ft/day)	100 ft/day
$U_{100}$	Specific discharge (ft/day)	100 ft/day

$U_{101}$	Specific discharge (ft/day)	100 ft/day
$U_{102}$	Specific discharge (ft/day)	100 ft/day
$U_{103}$	Specific discharge (ft/day)	100 ft/day
$U_{104}$	Specific discharge (ft/day)	100 ft/day
$U_{105}$	Specific discharge (ft/day)	100 ft/day
$U_{106}$	Specific discharge (ft/day)	100 ft/day
$U_{107}$	Specific discharge (ft/day)	100 ft/day
$U_{108}$	Specific discharge (ft/day)	100 ft/day
$U_{109}$	Specific discharge (ft/day)	100 ft/day
$U_{110}$	Specific discharge (ft/day)	100 ft/day
$U_{111}$	Specific discharge (ft/day)	100 ft/day
$U_{112}$	Specific discharge (ft/day)	100 ft/day
$U_{113}$	Specific discharge (ft/day)	100 ft/day
$U_{114}$	Specific discharge (ft/day)	100 ft/day
$U_{115}$	Specific discharge (ft/day)	100 ft/day
$U_{116}$	Specific discharge (ft/day)	100 ft/day
$U_{117}$	Specific discharge (ft/day)	100 ft/day
$U_{118}$	Specific discharge (ft/day)	100 ft/day
$U_{119}$	Specific discharge (ft/day)	100 ft/day
$U_{120}$	Specific discharge (ft/day)	100 ft/day
$U_{121}$	Specific discharge (ft/day)	100 ft/day
$U_{122}$	Specific discharge (ft/day)	100 ft/day
$U_{123}$	Specific discharge (ft/day)	100 ft/day
$U_{124}$	Specific discharge (ft/day)	100 ft/day
$U_{125}$	Specific discharge (ft/day)	100 ft/day
$U_{126}$	Specific discharge (ft/day)	100 ft/day
$U_{127}$	Specific discharge (ft/day)	100 ft/day
$U_{128}$	Specific discharge (ft/day)	100 ft/day
$U_{129}$	Specific discharge (ft/day)	100 ft/day
$U_{130}$	Specific discharge (ft/day)	100 ft/day
$U_{131}$	Specific discharge (ft/day)	100 ft/day
$U_{132}$	Specific discharge (ft/day)	100 ft/day
$U_{133}$	Specific discharge (ft/day)	100 ft/day
$U_{134}$	Specific discharge (ft/day)	100 ft/day
$U_{135}$	Specific discharge (ft/day)	100 ft/day
$U_{136}$	Specific discharge (ft/day)	100 ft/day
$U_{137}$	Specific discharge (ft/day)	100 ft/day
$U_{138}$	Specific discharge (ft/day)	100 ft/day
$U_{139}$	Specific discharge (ft/day)	100 ft/day
$U_{140}$	Specific discharge (ft/day)	100 ft/day
$U_{141}$	Specific discharge (ft/day)	100 ft/day
$U_{142}$	Specific discharge (ft/day)	100 ft/day
$U_{143}$	Specific discharge (ft/day)	100 ft/day
$U_{144}$	Specific discharge (ft/day)	100 ft/day
$U_{145}$	Specific discharge (ft/day)	100 ft/day
$U_{146}$	Specific discharge (ft/day)	100 ft/day
$U_{147}$	Specific discharge (ft/day)	100 ft/day
$U_{148}$	Specific discharge (ft/day)	100 ft/day
$U_{149}$	Specific discharge (ft/day)	100 ft/day
$U_{150}$	Specific discharge (ft/day)	100 ft/day
$U_{151}$	Specific discharge (ft/day)	100 ft/day
$U_{152}$	Specific discharge (ft/day)	100 ft/day
$U_{153}$	Specific discharge (ft/day)	100 ft/day
$U_{154}$	Specific discharge (ft/day)	100 ft/day
$U_{155}$	Specific discharge (ft/day)	100 ft/day
$U_{156}$	Specific discharge (ft/day)	100 ft/day
$U_{157}$	Specific discharge (ft/day)	100 ft/day
$U_{158}$	Specific discharge (ft/day)	100 ft/day
$U_{159}$	Specific discharge (ft/day)	100 ft/day
$U_{160}$	Specific discharge (ft/day)	100 ft/day
$U_{161}$	Specific discharge (ft/day)	100 ft/day
$U_{162}$	Specific discharge (ft/day)	100 ft/day
$U_{163}$	Specific discharge (ft/day)	100 ft/day
$U_{164}$	Specific discharge (ft/day)	100 ft/day
$U_{165}$	Specific discharge (ft/day)	100 ft/day
$U_{166}$	Specific discharge (ft/day)	100 ft/day
$U_{167}$	Specific discharge (ft/day)	100 ft/day
$U_{168}$	Specific discharge (ft/day)	100 ft/day
$U_{169}$	Specific discharge (ft/day)	100 ft/day
$U_{170}$	Specific discharge (ft/day)	100 ft/day
$U_{171}$	Specific discharge (ft/day)	100 ft/day
$U_{172}$	Specific discharge (ft/day)	100 ft/day
$U_{173}$	Specific discharge (ft/day)	100 ft/day
$U_{174}$	Specific discharge (ft/day)	100 ft/day
$U_{175}$	Specific discharge (ft/day)	100 ft/day
$U_{176}$	Specific discharge (ft/day)	100 ft/day
$U_{177}$	Specific discharge (ft/day)	100 ft/day
$U_{178}$	Specific discharge (ft/day)	100 ft/day
$U_{179}$	Specific discharge (ft/day)	100 ft/day
$U_{180}$	Specific discharge (ft/day)	100 ft/day
$U_{181}$	Specific discharge (ft/day)	100 ft/day
$U_{182}$	Specific discharge (ft/day)	100 ft/day
$U_{183}$	Specific discharge (ft/day)	100 ft/day
$U_{184}$	Specific discharge (ft/day)	100 ft/day
$U_{185}$	Specific discharge (ft/day)	100 ft/day
$U_{186}$	Specific discharge (ft/day)	100 ft/day
$U_{187}$	Specific discharge (ft/day)	100 ft/day
$U_{188}$	Specific discharge (ft/day)	100 ft/day
$U_{189}$	Specific discharge (ft/day)	100 ft/day
$U_{190}$	Specific discharge (ft/day)	100 ft/day
$U_{191}$	Specific discharge (ft/day)	100 ft/day
$U_{192}$	Specific discharge (ft/day)	100 ft/day
$U_{193}$	Specific discharge (ft/day)	100 ft/day
$U_{194}$	Specific discharge (ft/day)	100 ft/day
$U_{195}$	Specific discharge (ft/day)	100 ft/day
$U_{196}$	Specific discharge (ft/day)	100 ft/day
$U_{197}$	Specific discharge (ft/day)	100 ft/day
$U_{198}$	Specific discharge (ft/day)	100 ft/day
$U_{199}$	Specific discharge (ft/day)	100 ft/day
$U_{200}$	Specific discharge (ft/day)	100 ft/day

(Source: Repealed at 21 Ill. Reg. 3617, effective

3617

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

Section	C	Soil Remediation	Methodology:	Chemical Specific
732.TABLE Parameters (Repealed)				

Chemical	Absorption Coefficient (cm <sup>2</sup> /g)	Degradation Constant (h)	Half-life Constant (h)	Solubility (mg/L)	Groundwater Objective (mg/L)
Benzene	11.58	0.00000	0.22	1260	0.0005
toluene	1.340	0.0111	12.26	535	4.0
ethyl benzene	1.065	0.0004	0.32	162	0.7
Xylene	2.260	0.0000	0.20	160	10.12
Naphthalene	2.200	0.0002	1.7	1.7	0.0128
benzopyrene	2.000	0.0002	1.20 x 10 <sup>4</sup>	0.0001	0.0002

Source Reported at 21 III R.; 3697 = 104-106.

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. TABLE D Soil Remediation Methodology: Objectives (Repealed)

Distance (feet)	Chemical Name				Benzene				Soot Cleanup Objectives (ug/kg)				Benzene				Naphthalene				Pyrene			
	Benzene				Toluene				Ethyl Benzene				Xylenes				Naphthalene				Pyrene			
	Benzene				Toluene				Ethyl Benzene				Xylenes				Naphthalene				Pyrene			
-- 5	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 10	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 15	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 20	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 25	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 30	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 35	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 40	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 45	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 50	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 55	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 60	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 65	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 70	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 75	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 80	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 85	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 90	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
-- 95	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
100	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
105	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
110	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
115	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
120	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
125	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
130	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
135	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
140	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
145	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
150	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
155	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
160	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
165	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
170	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
175	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
180	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
185	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
190	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0
195	0.005	1.0	0.7	10.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0	0.025	3.0	2.0	20.0

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

299 7-362 13-943 2-988 10-0 7-366 0-984  
 (Source: Repealed at 21 Ill. Reg. **361** effective  
 11/1/94)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. ILLUSTRATION A Equation For Groundwater Transport (Repealed)

The Board used the following correct ASGM equation for steady-state attenuation of chemical concentration obtained from Domenico P.A. and Ananthchari, Model for Multi-dimensional Transport of a Decaying Contaminant, *Speciasa Journal of Hydrology*, Vol. 91, pp. 49-59, 1987, as referenced in ASGM-BS-387 ASGM-Guide for Risk-Based-Corrective-Action-Applied-at-Petroleum-Release-Sitesy-Approved-May-1994:

$$\frac{C(x)}{C_{\text{source}}} = \exp \left[ \frac{x}{2\alpha_v} \left( 1 + \sqrt{1 + \frac{4\lambda\alpha_v}{U}} \right) H(\text{eff}) \frac{S_v}{\lambda\alpha_v x} H(\text{eff}) \frac{S_d}{\lambda\alpha_v x} \right]$$

referenced in the ASTM guide for Risk Based-Corrective-Action Applied at Petroleum Release Sites, approved may, 1994.

C = Dissolved hydrocarbon concentration along centerline of dissolved plume [ $\text{g}/\text{cm}^3 \text{H}_2\text{O}$ ]

C<sub>source</sub> = Dissolved hydrocarbon concentration in dissolved plume source area [ $\text{g}/\text{cm}^3 \text{H}_2\text{O}$ ]

S<sub>v</sub> = Source width (vertical plane) [cm]

S<sub>d</sub> = Source width (horizontal plane) [cm]

a<sub>v</sub> = Longitudinal dispersivity [cm]

a<sub>h</sub> = Transverse dispersivity [cm]

U = Vertical dispersivity [cm]

U = K<sub>s</sub>/q<sub>v</sub>

K<sub>s</sub> = Saturated hydraulic conductivity [cm/d]

k<sub>s</sub> = Sorption coefficient

q<sub>v</sub> = Volumetric water content of saturated zone

I = Groundwater gradient [cm/cm]

I = First order degradation constant

eff = Error function evaluated for value of

x = Distance along the center line from edge of dissolved plume source zone [cm]

(Source: Repealed at 21 Ill. Reg. **361** effective 11/1/94)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. ILLUSTRATION C Equation For Calculating Groundwater Objectives at the Source (Repealed)

The Board used the following equation drawn from the IPMA proposal (see Illustration B) to calculate the groundwater objectives at the source:

$$GW_{\text{source}} = \frac{C(N) \cdot C_{\text{max}}}{C(N) / C_{\text{max}}}$$

$GW_{\text{source}}$  = Groundwater objective at the source

$GW_{\text{max}}$  = Groundwater objective at compliance point

$C(N)C_{\text{max}}$  = Calculated for a distance of 5 to 200 feet using equation 1

(Source: Repealed at 21 Ill. Reg. 3617 effective 1/1/97)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. ILLUSTRATION B Equation For Soil-Groundwater Relationship (Repealed)

The Board used the following equation drawn from the ASGW guide as referenced in Illustration C to calculate the leaching factor--identified as Equation No. 1 in the Illinois Petroleum Marketers Association (IPMA) guide and as Equation No. 2 in the Illinois Second Notice Opinion and Order--Basking B44-244y--entitled "In the Matter of: Regulation of Petroleum--Basking Underground Storage Tanks (135 Ill. Adm. Code 732) (Pursuant to P.A. 88-496)";

$$LF = \frac{(\text{mg/l Water}) \cdot \rho_s}{(\text{mg/kg Soil}) \cdot (0.01 + k_p \cdot \rho_s + H \theta_{\text{soil}} / (1 - \theta_{\text{soil}}))} \cdot \frac{10^6 \text{ cm}^3 \cdot \text{kg}}{\text{L} \cdot \text{g}}$$

LF = Leaching factor

$k_p$  = Soil water sorption coefficient

$U_p$  = Groundwater Darcy Velocity (cm/sec)

$d_p$  = Groundwater mixing zone thickness (cm)

$\rho_s$  = Soil bulk density

$q_a$  = Volumetric air content in vadose zone soils

$q_w$  = Volumetric water content in vadose zone soils

$H$  = Henry's Law constant

$I$  = Infiltration rate of water through soil

$W$  = Width of source parallel to groundwater flow

(Source: Repealed at 21 Ill. Reg. 3617 effective 1/1/97)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. ILLUSTRATION D Equation For Calculating Soil Objectives at the Source (Repealed)

The Board used the following equation drawn from the IPMA proposal (see Illustration B) to calculate the soil remediation objectives:

$$\text{Soil Target} = \frac{GW_{\text{max}}}{(LF_{\text{soil}})SF}$$

Soil Target = Soil objective at the source

LF = Soil leaching factor calculated using equation 2

SF = Safety factor (1000)

(Source: Repealed at 21 Ill. Reg. 601.172 effective 1/1/92)

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section 732. APPENDIX C Backfill Volumes

Volume of Tank in Gallons	Maximum amount of backfill material to be removed in cubic yards in place	Maximum amount of backfill material to be replaced in cubic yards in place
<285	54	56
285 to 299	55	57
300 to 559	56	58
560 to 999	67	70
1000 to 1049	81	87
1050 to 1149	89	96
1150 to 1999	94	101
2000 to 2499	112	124
2500 to 2999	128	143
3000 to 3999	143	161
4000 to 4999	175	198
5000 to 5999	189	219
6000 to 7499	198	235
7500 to 8299	206	250
8300 to 9999	219	268
10000 to 11499	242	312
12000 to 14999	286	342
15000 to 19999	345	420

(Source: Added at 21 Ill. Reg. 601.172, effective 1/1/92)

PROPERTY TAX APPEAL BOARD  
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures
- 2) Code Citation: 86 Ill. Adm. Code 1910
- 3) Section Numbers:
  - 1910.5 Amended
  - 1910.10 Amended
  - 1910.20 Amended
  - 1910.30 Amended
  - 1910.40 Amended
  - 1910.50 New Section
  - 1910.60 Amended
  - 1910.65 Amended
  - 1910.66 New Section
  - 1910.67 Amended
  - 1910.68 Amended
  - 1910.69 Amended
  - 1910.70 Amended
  - 1910.75 Amended
  - 1910.90 Amended
- 4) Statutory Authority: 35 ILCS 200/Art. 7 and 16-180 through 16-195
- 5) Effective Date of Amendments: March 6, 1997
- 6) Does this rulemaking contain an automatic renewal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) Date filed in Agency's Principal Office: March 6, 1997
- 9) Date Notice of Proposed Rules was Published in the Illinois Register: December 13, 1996, at 20 Ill. Reg. 15657
- 10) Whether JCAR issued a statement of objections to these amendments: Yes
  - A) Date and Register citation to the objection: March 14, 1997, at 11 Ill. Reg. 3333
  - B) Date and Register citation to the agency's response: Section in question removed prior to adoption.
  - C) Date agency submitted the response to JCAR: February 28, 1997
- 11) Differences between proposal and final version: Retains the provision allowing a contesting party to correct and refile an incomplete petition. Deletes section precluding a taxing body from pursuing an appeal with the

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- Property Tax Appeal Board when a taxpayer has filed a tax objection complaint in the circuit court based upon valuation as permitted by Sections 21-175 and 23-5 of the Property Tax Code.
- Provides for a prehearing conference in appeals with more than \$300,000 of assessed valuation at issue on motion of any party to the appeal.
- Allows for the filing of a single petition involving multiple parcels in condominium building appeals.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
  - 13) Will these amendments replace Emergency Amendments currently in effect? No
  - 14) Are there any Amendments pending on this Part? No
  - 15) Summary and Purpose of Amendments: The amendments update statutory citations to proper provisions of the Illinois Compiled Statutes and the Property Tax Code. The amendments explain, clarify and delineate appeal procedures at the State level of property assessment adjudication.
  - 16) Information and questions regarding this amended part shall be directed to:

James W. Chipman - Executive Director  
Property Tax Appeal Board  
Rm. 402, Stratton Office Building  
401 S. Spring St.  
Springfield, IL 62706  
(217) 782-6076

The full text of the Adopted Amendments begins on the next page:



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## TITLE 86: REVENUE

## CHAPTER 11: PROPERTY TAX APPEAL BOARD

PART 1910  
PROCEDURES

Section	
1910.5	Construction and Definitions
1910.10	Statement of Policy
1910.20	Correspondence
1910.25	Computing Time Limits
1910.30	Petitions - Application
1910.40	Board of Review Response to Petition Application Determination-of Appraised-Assessment
1910.50	Determination of Unvalued Assessments Hearings-(Renumbered)
1910.60	Burden of Proof
1910.65	Documentary Evidence---Rebuttal
1910.66	Rebuttal Evidence
1910.67	Hearings
1910.68	Subpoenas
1910.69	Sanctions
1910.70	Representation at Hearings
1910.75	Access to Board Records
1910.80	Forms
1910.90	Practice Rules
1910.95	Separability

AUTHORITY: Implementing and authorized by the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

SOURCE: Adopted at 4 Ill. Reg. 23, P. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 4 Ill. Reg. 16434, effective January 1, 1990; amended at 21 Ill. Reg. 306, effective MAR 06 1997.

## Section 1910.5 Construction and Definitions

- Standards. This Part is to be construed in accordance with the appropriate provisions of the Statute on Statutes [5 ILCS 701].  
AG--to--revise--the--law--in--relation--to--the--construction--of--the--statutes--as--amended--(1111--Rev--Stat--1987--ch--11--par--1401--et seq);
- Definitions. The following words and phrases, whenever used in this Part, include in their meaning the definitions set below:
  - Board - Property Tax Appeal Board.
  - The Code - Property Tax Code [35 ILCS 200]. The Act - The Revenue Act of 1993 (1111--Rev--Stat--1987--ch--110--par--1401--et seq).
  - Real Property - THE includes-not-only--the land itself whether

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1910.50--out--in--town--or--city--lots--or--otherwise, with all things contained therein, and but also all buildings, structures and improvements, and other permanent fixtures--of--whatever-kind--thereon, including all oil, gas, coal and other minerals in the from--such land and the right to remove such oil, gas, coal and other minerals, excluding coal from the structure, and all rights and privileges belonging to the structure, and all excepts where the structure is otherwise specified denominated by the Code and included therein is any vehicle or similar portable structure used or so constructed as to permit its use being--used as a dwelling place for--one--or--more--persons, if the such structure is resting in whole on a permanent foundation. [Section 1-130 of the Code] (Section-1133-of-the-Act)

4) Improvements--Anything--other--than--the--raw-land--itself--affecting the--value--of--real-estate--such--as--buildings--structures--paving--fencing--and--the--like

4)5) Farm - When used in connection with valuing land and buildings for an agricultural use, any property shall mean any tract of land used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck, nursery, vegetable crops, floriculture, mushroom growing, and tree nurseries, orchards, sods, sod farms, sod farms and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairy, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of real property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall continue to be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Part, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property such-land to not be considered as used solely for farming. [Section 1-60 of the Code] (Section-1134-of-the-Act)

5) Fair Cash Value - The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. [Section 5-10 of the Code] (Section-1135 of the Code)

6) PIN - Property Index Number Permanent Index Number (Parcel Number) - A number used to identify a tract of property for assessment and taxation. The index number shall constitute a sufficient description of the property to which it has been assigned, wherever a description is required by the



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## Section 1910.30 Petitions - Application

- a) Petitions for appeal shall be filed within 30 days after the postmark date or personal service date of written notice of the decision of the Board of Review (Section 12-50 of the Code) Board of Review or the postmark date or personal service date of the written notice of the application of the Board of Review. The written notice of the application of the Board of Review shall be considered filed on the date postmarked. Faxed petitions and evidence will not be accepted by the Board.
- b) Petitions for appeal shall be filed within 30 days after the postmark date or personal service date of written notice of the application of the final adopted township equalization factors by the Board of Review. Petitions sent by mail shall be considered as filed on the date postmarked. Faxed petitions and evidence will not be accepted by the Board.
- c) The petition for appeal shall be on the prescribed form and a separate petition must be filed for each separately assessed parcel except for condominium buildings or unless a written request is made to the Board for the filing of a single petition for multiple parcels. Such request, together with the petition, shall be filed within 30 days after the postmark date or personal service of written notice of the decision of the Board of Review. Each petition shall identify and describe the subject parcel by the PIN or the PIN and the assessor's name. If assigned to a subject parcel by the county, the assessor's name and where multiple parcels are consolidated into a single petition, the assessed values and the relief requested for each individual parcel must be separately listed. It shall identify and describe the particular property including the identification number or plate number, if any, assigned to the subject parcel by the county.
- d) Each copy of petitions filed with the Property Tax Appeal Board shall bear an original signature of the contesting party or his attorney, and shall be filed with the Clerk of the Property Tax Appeal Board.
- e) A copy of the written notice of the decision of the Board of Review shall be filed with the petition, if one has been issued.
- f) Petitions for appeal shall be filed in triplicate and all copies of the same shall be properly signed as stated in subsection (g) of this Section. All additional written and documentary evidence must be submitted in duplicate with the petition. A photograph of the subject property shall be submitted with the petition. If the appeal involves a photograph of the improvement to be protested, the photograph shall be submitted with the petition. If the contesting party is unable to submit the additional written or documentary evidence with the petition, he must submit a letter requesting an extension of time with the petition. Upon receipt of such a request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include but is not limited to shall be the

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inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked.

h) Every petition for appeal shall state the facts upon which the contesting party bases his objection to the decision of the Board of Review, together with a statement of the contents of the evidence submitted to the Board. Each petition must also set forth the assessment for the subject parcel by the county. The assessor considers to be correct. If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition or within 30 days thereafter. Extensions of time shall be granted in accordance with subsection (g) of this Section. Failure to do so shall result in dismissal of the appeal.

i) Every petition for appeal shall give the post office address where mail addressed to the contesting party may be received by him or his attorney, together with his telephone number. The Property Tax Appeal Board must be notified in writing by any party of a change of address within 60 days of any such change.

j) The petition for Real Property Appeal shall in all cases state the assessed value of the land, and the assessed value of the improvements (structures), and the total assessed value as placed on the property by the local assessor and by the Board of Review Board of Review. The party claims to be correct. It shall state the assessed valuation which the contesting party claims to be correct.

k) All information required to fully complete the petition shall be furnished by the contesting party at the time the petition is filed. Incomplete petitions and petitions not on the prescribed form will not be accepted for filing or assignment of a docket number but shall be accepted for filing or assignment of a docket number with an explanation of the reasons for the rejection. The contesting party must resubmit the corrected petition within 20 days after the date of the return of the petition. If the returned petition is not resubmitted within the 20 day period, the appeal will be dismissed from consideration by the Board of Review. With an explanation of the reasons for their rejection. However, the contesting party may refile within 30 days after the date of the return of this petition. Petitions which are not signed, petitions which do not state the assessed valuation assigned by the local assessor and the Board of Review Board of Review, petitions which do not state the assessed valuation considered correct by the contesting party, shall be rejected. Petitions not containing all information required for filing or assignment of a docket number shall be rejected. If the contesting party is unable to submit the additional written or documentary evidence with the petition, he must submit a letter requesting an extension of time with the petition. Upon receipt of such a request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include but is not limited to shall be the





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## Board of review.

- c) All proceedings before the Property Tax Appeal Board are de novo which shall mean that the Property Tax Appeal Board will consider only the evidence, exhibits and briefs submitted to it and will not give any weight to or consideration of any prior actions by a local Board of Review or any submissions not timely filed or not specifically made a part of the record. Property Tax Appeal Board may accept into the record all evidence, exhibits and briefs submitted by all interested parties and render a decision without holding a hearing. However, on its own motion, the Board may order a hearing to be held at a time and place designated by the Board.
- d) The decisions of the Property Tax Appeal Board will be based on equity and the weight of the evidence. A three-year county-wide assessment level to be based on relevant sales during the previous three years as certified by the Department of Revenue will be considered where sufficient probative evidence is presented indicating the estimate of full market value of the subject property on the relevant assessment date of January 1.
- e) Whether or not a hearing is held in the appeal proceedings, the proceedings before the Property Tax Appeal Board shall be terminated when the Board renders a decision. The Board may revise and/or correct a decision upon its own initiative at any time prior to the expiration of the 35-day appeal period provided in Section 16-195 of the Code. If the Board determines that a clerical error of assessment or other clerical error is discovered in such event, the Board shall issue an amended decision. The decision or order of the Property Tax Appeal Board in any such appeal shall, within 10 days after it is made and entered, be certified to the proper authorities including the Board of Review whose decision was appealed. The County Clerk who extends taxes upon the assessment in question and the County Collector (Treasurer) who collects property taxes upon such assessments.
- f) A majority of the Members of the Board is required to make a decision of the Board.
- g) Final administrative decisions of the Property Tax Appeal Board are subject to review under the provisions of the Administrative Review Law (Rev. Stat. 1997, ch. 110, para. 3-21.1 et seq.) and Section 14-4 of the Act.

- h) The required number of copies of all documents in an appeal file necessary to complete the certification to the proper authorities will be prepared by the Property Tax Appeal Board at a cost to the plaintiff of \$25 per page, except for pages of the original transcript which will have a cost of \$75 per page and for pages larger than legal size which will have a cost of \$1.00 per page. From the original certification of proceedings which will be filed with the Clerk of the Circuit Court, copies of the proceedings will be

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prepared and forwarded to the Attorney General, State's Attorney, the plaintiff, and the Administrative Review and one copy will be retained as a permanent record for the Property Tax Appeal Board. An estimate of the cost of preparing a certified record will be mailed to the appellant. The receipt of the necessary payments to the Property Tax Appeal Board will constitute the filing of the appeal. If a petition is filed by a taxpayer with the Property Tax Appeal Board, the taxpayer is precluded from filing objections based upon valuation in the Circuit Court as may otherwise be permitted by Sections 21-275 and 23-5 of the Property Tax Act and 235 of the Act.

(Source: Amended at 21 Ill. Reg. 3706, effective  
MAR 15 2001)

## Section 1910.50 Determination of Appraised Assessment Hearings (renumbered)

- a) All proceedings before the Property Tax Appeal Board shall be considered de novo which shall mean that the Property Tax Appeal Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local Board of Review or any submissions not timely filed or not specifically made a part of the record. Property Tax Appeal Board may accept into the record all evidence, exhibits and briefs submitted by all interested parties and render a decision without holding a hearing. However, on its own motion, the Board may order a hearing to be held at a time and place designated by the Board. A hearing shall be granted if any party to the appeal submits a request in writing. (Section 16-170 of the Code)
- b) The decisions of the Property Tax Appeal Board will be based on equity and the weight of the evidence. In all counties other than Cook, a three-year county wide assessment level to be based on relevant sales during the previous three years as certified by the Department of Revenue will be considered where sufficient probative evidence is presented indicating the estimate of full market value of the subject property on the relevant real property assessment date of January 1.
- c) Whether a hearing is held in the appeal proceedings, the proceedings before the Property Tax Appeal Board shall be terminated when the Board renders a decision. The Board may revise and/or correct a decision upon its own initiative at any time prior to the expiration of the 35-day appeal period provided in Section 16-195 of the Code. If the Board determines that a clerical error is discovered in such event, the Board shall issue an amended decision. The decision or order of the Property Tax Appeal Board in any such appeal shall, within 10 days after it is made and entered, be certified to the proper authorities including the Board of Review whose decision was appealed. The County Clerk who extends taxes upon the assessment in question and the County Collector (Treasurer)





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affecting his property, the owner or taxpayer may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene within 30 days after the postmark date of the notice to the owner or taxpayer that the taxing body has filed an appeal.

d) Any taxing body that has a revenue interest in an appeal before the Property Tax Appeal Board may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene. The Request to Intervene must be filed within 60 days after the postmark date of the notice of the Board to the State's Attorney of the filing of an appeal, or within 30 days after the postmark of the board of review service as required in Section 16-180 of the Property Tax Code. Section 16-184 of the Act, which ever is later, become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene. The Request to Intervene must be accompanied by a copy of the resolution of the governing board of the taxing body authorizing its legal representative to file a Request to Intervene on its behalf.

e) Requests to Intervene shall be filed in triplicate and all copies of the same shall be signed. All additional written and documentary evidence must be submitted with the Request to Intervene in triplicate. Any Request to Intervene which is received without a copy of the resolution of the governing board of the taxing body authorizing its legal representative to file the Request to Intervene on its behalf shall be treated as incomplete and shall be returned. However, the intervening party may refile within 20 days after the date of the return of the Request to Intervene.

f) If the intervening party is unable to submit the additional written or documentary evidence with the Request to Intervene, he must submit a letter requesting an extension of time with the Request to Intervene. Upon receipt of such a request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include ~~that~~ but not limited to the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the Request to Intervene is filed.

g) The Clerk of the Property Tax Appeal Board shall cause such Request to Intervene and the accompanying documentary evidence to be filed in the appeal proceeding and the Board of Review shall send a copy of the same to the contesting party and the board of review Board of Review. f) Upon receipt of a timely Request to Intervene, the Clerk of the Property Tax Appeal Board shall cause a copy of the appeal record to be forwarded to the intervening party.

(Source: Amended at 21 Ill. Reg. 3706, effective

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(AIR 05 143)

## Section 1910.65 Documentary Evidence---Rebuttal

a) The Property Tax Appeal Board generally considers appeals with respect to the correct valuation of property for assessment purposes based upon the following contentions: that the subject property is not accurately assessed when its assessment is based upon the same facts and circumstances of other, similar properties in its neighborhood; and/or that the market value of the subject property is not accurately reflected in its assessment.

b) Proof of unequal treatment in the assessment process should consist of documentation of the assessments for the assessment year in question of the subject property and it is recommended that not less than three of the suggested comparable properties be submitted, and the documentation of documentation must be submitted, showing the similarity, proximity and lack of distinguishing characteristics of the assessment comparables to the subject property.

c) Proof of the market value of the subject property may consist of the following:

- 1) an appraisal of the subject property as of the assessment date at issue;
  - 2) a recent sale of the subject property;
  - 3) documentary evidence of the cost of construction of the subject property including the cost of the land, and the value of any labor provided by the owner if the date of construction is proximate to the assessment date; or
  - 4) documentation of not fewer than three recent sales of suggested comparable properties together with documentation of the similarity, proximity and lack of distinguishing characteristics of the sales comparables to the subject property.
- d) The Property Tax Appeal Board may consider appeals based upon the contentions of law. Such contentions of law must be concerned with the correct assessment of the subject property. If contentions of law are raised, the party shall submit a brief in support of his position.
- e) Upon receipt of the argument and accompanying documentation filed by a party, any other party may, within 30 days of receipt, file written or documentary rebuttal evidence---Rebuttal---which---constitutes---written---or---documentary---evidence---submitted---to---exp---party and contract or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party.

(Source: Amended at 21 Ill. Reg. 3708, effective

Section 1910.66 Rebuttal Evidence

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- a) Upon receipt of the argument and accompanying documentation filed by a party, any other party may, within 30 days after receipt, file written or documentary rebuttal evidence. Rebuttal evidence shall consist of written or documentary evidence submitted to explain, reveal, contradict or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party.
- b) Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

(Source: Added at 21 Ill. Reg. 3706, effective

10/1/74)

## Section 1910.67 Hearings

- a) By statute, the Property Tax Appeal Board may render a decision based upon the evidence, exhibits and briefs submitted to it by all interested parties without holding a hearing.
- b) The Property Tax Appeal Board shall review all appeals filed in compliance with these rules to determine whether a hearing shall be held on any factual or legal issue. Whenever the Board determines that a hearing is not required, the appeal shall be decided based upon the evidence in the record. The Board shall hold a hearing at the request of any party in writing or when evidence received from the contesting party---the Board---of---review---and/or---an---intervening---party---supports differing positions. In the event a hearing is deemed necessary, the Board shall give notice to all parties to the appeal of the time, date, and place of the hearings at least 20 days prior to the hearing. The appeal 20 day period is specifically waived by all the parties to the appeal.
- c) A party may request a decision of the Property Tax Appeal Board based upon the evidence in the record by filing a written request with the Board at its Springfield office. Any such request shall not be binding on the Board.
- d) Notice of a hearing to all interested taxing bodies by the Property Tax Appeal Board shall be deemed to have been given when served upon the State's Attorney of the county from which the appeal has been taken, unless such interested taxing bodies have specifically been made parties to the appeal proceeding.
- e) In all cases where a change in assessed valuation of \$300,000 \$400,000 or more is sought, the Property Tax Appeal Board shall order a prehearing conference on the motion of any party to the appeal. In all appeals the Board may set a prehearing conference to promote the narrowing of issues, stipulations, and judicial economy. The Board's determination will be based on the complexity of the appeal, the issues in controversy, and the potential for settlement. This hearing

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will be designed to ascertain the positions of the parties and to reach agreements on stipulations of fact; admission of documents and all other matters that will expedite the hearing and determination of the appeal whenever the cases have been set for hearing by the Board and one or more factual or legal issues exist which can be resolved at a prehearing conference. The Board shall issue a prehearing order resolving matters agreed to and rulings as to disputed matters. The order shall be served at the same time upon all parties and shall control the subsequent course of the proceeding.

- f) Hearings may be held before less than a majority of the Members of the Board, and the Chairman may assign Members or Hearing Officers to hold hearings. Any hearing may be conducted by the Property Tax Appeal Board at its offices in Springfield or at any other location in Illinois selected by the Board. The Board may cause its Hearing Officer to conduct such hearing and report his findings for affirmation or rejection by the Board.

g) Hearings shall be open to the public and shall be conducted in accordance with such rules of practice and procedure as the Board may make and promulgate.

- h) Power of the Property Tax Appeal Board during hearings.

- 1) In connection with any proceeding, the Board shall have full authority to:

- A) Conduct and control the procedure of the hearing;  
 B) Admit or exclude testimony or other evidence into the record pursuant to this Part;  
 C) Administer oaths and affirmations and examine all persons appearing at the hearing to testify or to offer evidence;  
 D) Require the production of any book, record, paper or document at any stage of the appeal or of the hearing which is the foundation for any evidence or testimony presented in the appeal; and  
 E) Require the submission of briefs on issues of law raised during the hearing within 60 days after the termination of the hearing.
- 2) The Board shall cause its Hearing Officer to conduct hearings on its behalf and report his findings for affirmation or rejection. Any such Hearing Officer shall be empowered to exercise the full authority of the Board with respect to the conduct and control of the proceeding.

- i) Continuances shall be granted for good cause shown in writing, and then only on an order of a Member of the Property Tax Appeal Board, or a duly authorized Hearing Officer. Good cause shall be the inability to attend the hearing at the date and time set by the Board for a cause beyond the control of the party, such as the unavoidable absence of a party, his attorney or material witness, or the serious illness of a party, a witness or party. The Board shall set the hearing of a continued case at the time it sets other hearings of appeals from the county in which the subject of the continued appeal lies, unless the

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parties request that the Board decide the appeal based upon the evidence in the record without a formal hearing.

- 3) At the hearing, the contesting party shall first introduce his case into evidence, followed by the evidence of other parties to the appeal, in the order directed by the Property Tax Appeal Board or Hearing Officer. All parties are entitled to a rebuttal after all the evidence of all parties has been introduced. Evidence submitted to the Board in documentary form may be made a part of the record without the document being read into the record if the Board or Hearing Officer so orders.
- 4) In no case shall any written or documentary evidence be accepted into the appeal record at the hearing unless:
  - 1) Such sworn evidence has been submitted to the Property Tax Appeal Board prior to the hearing pursuant to this Part or enters into the record.
  - 2) The filing requirement is specifically waived by the Board;
  - 3) The submission of the written or documentary evidence is specifically ordered by the Board or by a Hearing Officer.
- 4) Appraisal testimony offered to prove the valuation asserted by any party shall not be accepted at the hearing unless a documented appraisal has been timely submitted by that party pursuant to this Part. Appraisal testimony offered to prove the valuation asserted may only be given by a preparer of the documented appraisal whose signature appears thereon.
- 5) All testimony taken at the hearing shall be under oath or affirmation. The Board shall eliminate such rules of evidence, practice and procedure to the extent it considers practicable.
- 6) In all cases where the contesting party is seeking a change reduction of \$100,000 \$95999 or more in assessed valuation, the contesting party must provide a court reporter at his own expense. The original transcript of the testimony of the contesting party shall be forwarded to the Springfield Office of the Property Tax Appeal Board and shall become a part of the Board's official record of the proceedings on appeal. The court reporter's certified transcript should be forwarded as soon as possible but no later than within 60 days after of the hearing.
- 7) If a stipulation is agreed to by all interested parties, it may be taken into consideration by the Property Tax Appeal Board but must be supported by evidence in the record. The Board reserves the right to write a decision based on the facts, evidence and exhibits in the record.
- 8) If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to qualification, shall remain in effect for the remainder of the quadrennial assessment period as provided in Section 43 of the Act unless upon proper filing the local Board of Review or other interested party can show substantial cause why such assessment should not remain in effect. The remainder of the quadrennial assessment period, or unless the decision

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of the Property Tax Appeal Board is reversed or modified upon review (Section 111.4 of the Act): The Board of Review or other interested party must notify the Property Tax Appeal Board within 30 days of notice of the filing of an appeal that substantial evidence exists. Substantial cause shall be supported by documented evidence as provided in Section 1910.60(f). Substantial cause shall be a change in the physical characteristics of the property, a change in the assessment methodology of the Board of Review or the discovery of new evidence not submitted in the initial appeal. Upon receipt of evidence tending to show the existence of substantial cause, the Property Tax Appeal Board shall transmit a copy of the evidence to the contesting party. The contesting party shall be granted a 30-day extension of time to respond to the evidence of substantial cause. Additional findings of time shall be granted in accordance with Section 1910.60(f). If the party has no substantial cause, it is proved, the Property Tax Appeal Board shall issue an order in its current case affirming its findings of the prior year subject only to equitable

(Source: Amended at 21 Ill. Reg. 3705, effective 10-1-79)

## Section 1910.68 Subpoenas

- a) Issuance. Subpoenas shall be issued by the Chairman of the Board or his designee for good cause shown to compel the attendance of a witness or the production of books, records, correspondence, documents, papers or other evidence to facilitate its determination of the correct assessment of any parcel of real property. Good cause shall exist when the documentation which is the subject of the subpoena is in the exclusive possession and control of another party and the appeal and is necessary to a full determination of the issues presented at the appeal. The Board, or when the attendance of a witness who is subject to the subpoena is necessary to a full determination of the issues presented in any case, lawfully authorized to serve a subpoena under the laws of this State, Section 2-1101 of the Civil Practice Law (111c Rev. Stat. 1997, ch. 110, para. 2-1101) and Section 9-499 of the Code of Civil Procedure [735 ILCS 5/2-1101] (111c Rev. Stat. 1997, ch. 110, para. 9-499). The party requesting the subpoena shall be responsible for its service.
- b) Service. Subpoenas shall be served by any person lawfully authorized to serve a subpoena under the laws of this State, Section 2-1101 of the Civil Practice Law (111c Rev. Stat. 1997, ch. 110, para. 2-1101) and Section 9-499 of the Code of Civil Procedure [735 ILCS 5/2-1101] (111c Rev. Stat. 1997, ch. 110, para. 9-499). The party requesting the subpoena shall be responsible for its service.
- c) Witness and mileage fees. Witnesses attending any proceeding held by the Property Tax Appeal Board pursuant to any subpoena, shall be paid the same fees and mileage that are paid witnesses in the circuit courts of this State. (Section 16-1/5 of the Code) pursuant to Section 47 of the Act concerning fees and mileage and to classify several counties of this State with reference thereto (111c Rev. Stat. 1997, ch. 53, para. 45). The cost of service and witness and mileage fees shall be paid by the party requesting the subpoena.

## PROPERTY TAX APPEAL BOARD

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- d) In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order compelling enforcement of the subpoena. Enforcement--Whenever any person shall knowingly fail or refuse to comply with a subpoena served pursuant to this rule, the Property Tax Appeal Board, at the instance of the party requesting the subpoena, or on its own motion, may petition any circuit court for an order enforcing the subpoena.

(Source: Amended at 21 Ill. Reg. 3706, effective 1-1-76.)

## Section 1910.69 Sanctions

- a) Failure of any party to comply fully with all rules and/or specific orders of the Property Tax Appeal Board as provided in Sections 1910.40, 1910.45, 1910.65 and 1910.67 of this Part shall result in the default of that party.
- b) When a hearing is ordered by the Property Tax Appeal Board, all parties shall appear for the hearing on the appeal on the date and at the hour set by the Property Tax Appeal Board--and they shall be prepared to furnish any information the Board may require. Failure to appear on the date and at the hour set by the Property Tax Appeal Board shall be sufficient cause to default that party.
- c) When a party, his attorney, or his witness engages in threatening, disruptive, vulgar, abusive or obscene conduct or language which delays or protracts a proceeding, the Board, by any Member, or Hearing Officer, shall exclude the offending person from the proceeding. Any party engaging in such conduct or language shall be defaulted.
- d) A party, his representative, or his witness shall not communicate, directly or indirectly, with the Board, any Member, or employee in connection with any issue in a pending appeal except upon notice and opportunity for all parties to participate.
- e) Failure of the contesting party to furnish a court reporter as required in Section 1910.67(f) of this Part shall be sufficient cause to dismiss the appeal. Failure of the contesting party to furnish a court reporter's transcript within 60 days after the date of the hearing shall result in the dismissal of the appeal.

(Source: Amended at 21 Ill. Reg. 3706, effective 1-1-76.)

## Section 1910.70 Representation at Hearings

- a) A party shall have the right to represent himself, and to be present at and to participate in any hearing before the Property Tax Appeal Board. The right to participate shall include the rights to call, cross-examine, and cross-examine witnesses and to discuss any evidence presented and submitted pursuant to this Part. A party may be represented

## PROPERTY TAX APPEAL BOARD

## NOTICE OF ADOPTED AMENDMENTS

at the hearing by any person who is admitted to practice as an attorney in this State. Accountants, appraisers, real estate appraisers, real estate appraisers, real estate consultants and others not of this Section--representatives, tax representatives, tax advisers, real estate appraisers, real estate consultants and others not qualified to practice law in this State may not appear at hearings before the Board in a representative capacity, and may not conduct questioning, cross-examination or other investigation at the hearing. However, such persons may testify at hearings before the Board and may assist parties and attorneys in preparation of cases for presentation by such parties and attorneys for the Board at hearings.

- b) Any party, including a corporation, may be represented at a Property Tax Appeal Board proceeding by any authorized officer, employee or attorney.

(Source: Amended at 21 Ill. Reg. 3706, effective 1-1-76.)

## Section 1910.75 Access to Board Records

- a) Subject to the rights and protections of the Freedom of Information Act, 15 ILCS 401, the official record in each appeal decided by the Board and not pending in the courts of this State shall be available for public inspection upon making a written request with the Board.
- b) The Property Tax Appeal Board shall publish annually a volume containing synopses of representative cases decided by the Board during that year. The publication shall be organized by or cross-referenced by the issue presented before the Board in each decision contained in the publication. Copies shall be available at a reasonable cost.
- c) Inspection of any files and documents--or--the--annual--publication shall be permitted only at the offices of the Board.

(Source: Amended at 21 Ill. Reg. 3706, effective 1-1-76.)

## Section 1910.90 Practice Rules

- a) The provisions of this Section are promulgated pursuant to Section 16-180 of the Code of the State of Illinois, and shall apply to all hearings conducted by the Property Tax Appeal Board. Nothing contained in this Section shall in any way negate, limit, modify or otherwise affect any of the powers, duties or authority of the Board under the Act.
- b) Appeals filed with the Property Tax Appeal Board shall be set for hearing pursuant to Section 1910.67 of this Part. All hearings once commenced shall continue on successive work days until completed unless any Member or designated Hearing Officer orders a continuance of the hearing pursuant to subsection (d) of this Section. All hearings shall be open to the public.

## PROPERTY TAX APPEAL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- c) The sequence to be followed for all hearings before the Property Tax Appeal Board shall be as follows:
- 1) Preliminary matters - motions or objections, or attempts to narrow issues or limit evidence shall be heard first;
  - 2) Opening statements - the contesting party shall proceed first, followed by the Board of Review and Intervenor, if any; opening statements may be waived or may be reserved and presented prior to the commencement of a party's case in chief;
  - 3) Case in chief - the evidence and witnesses presented to prove the position of the contesting party shall be heard first, followed by those of the Board of Review and Intervenor, if any; as witnesses complete their testimony, they are subject to cross-examination by the Hearing Officer and the other parties to the appeal; witnesses may be questioned under redirect examination; the necessary witnesses presented to rebut the evidence offered in opposition to the contesting party's position shall be heard after the completion of the cases in chief of all parties, followed by the rebuttal evidence and witnesses of the Board of Review and Intervenor, if any;
  - 5) Closing statements - the closing argument of the contesting party shall be heard first, followed by the closing arguments of the Board of Review and Intervenor, if any; the contesting party shall be permitted a brief rebuttal at the end of the closing arguments of the other parties.
  - d) Continuances of appeals set for hearing shall be granted pursuant to Section 1910.67(1) of this Part; a hearing which has commenced may be continued by order of the Hearing Officer to permit further testimony.
  - e) All argument only if the time allotted for the hearing has expired.
  - f) Any party may object to the testimony of a witness or to the testimony of a witness or to the admissibility of evidence or testimony, and such objections must be made in writing and on the record.
  - 1) When an objection is made to the admissibility of evidence prior to the hearing of the appeal, the objection must be made in writing. A copy of the objection shall be submitted to all other parties to the appeal, and the Property Tax Appeal Board shall solicit responses thereto from all other parties. The Board shall issue its ruling on such objection in writing prior to the hearing of the appeal.
  - 2) When an objection is made to the admissibility of evidence or testimony during the hearing, the Hearing Officer may either sustain or overrule the objection if it is based on the provisions of this Part, or may reserve the ruling and permit the testimony and/or evidence into the record subject to the ruling of the Property Tax Appeal Board on the objection in its decision for the appeal.

## PROPERTY TAX APPEAL BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) Any party offering evidence which is ruled inadmissible shall be permitted to make a brief offer of proof in writing upon motion made at the hearing.
- g) The Property Tax Appeal Board or its designated Hearing Officer may exclude inadmissible evidence upon its own motion.
- h) Original documents and all copies thereof submitted to the Property Tax Appeal Board shall be retained by the Board. Exhibits shall be marked and identified. All exhibits and documentation discussed during the hearing shall be marked for identification by the Hearing Officer.
- i) The Property Tax Appeal Board may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice.
- j) Any party or his witness may be called by any other party as an adverse witness and examined as if under cross-examination in the same manner and under the same circumstances as provided in Section 2-1102 of the Code of Civil Procedure [735 ILCS 5/2-1102] Practice-Baw-ffii-Rev-Stett-1997,-chr-189-par-2-1102. Upon a showing that a witness was called in good faith and that the party calling him is surprised by his testimony, examination of the witness may proceed as if under cross-examination, and the testimony of the witness may be impeached by prior statements or otherwise.
- k) It is the policy of the Property Tax Appeal Board that the parties to an appeal have the right to submit evidence and to present oral testimony, which are not or fairly should not be in dispute. Prior to the hearing, during a prehearing conference or during the hearing of any appeal, the parties may file a stipulation setting forth all pertinent facts that are not in dispute; a list of all exhibits to which there are no objections, and any other matters that are not in dispute. Decisions of the Property Tax Appeal Board shall dispose of contested matters upon the merits and shall set forth the Board's findings of fact and conclusions of law, and shall be served by mail on the persons and parties affected thereby as provided in Section 16-185 of the Property Tax Code 1114-of-the-Aet. Decisions of the Board shall be based on the evidence contained in the administrative record.

(Source: Amended at 21 Ill. Reg.

3706

effective

4/10/16 1537

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULE

1) Heading of the Part: Respiratory Care Practice Act2) Code Citation: 68 Ill. Adm. Code 14563) Section Numbers:  
1456.05  
Emergency Action:  
New Part4) Statutory Authority: Respiratory Care Practice Act [225 ILCS 106]5) Effective Date of Amendments: March 11, 19976) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire: These emergency amendments are to expire when the proposed amendments are adopted.7) Date Filed in Agency's Principal Office: March 11, 19978) Reason for Emergency: The Respiratory Care Practice Act, P.A. 89-0003, effective January 1, 1996, provides for licensure of individuals who can provide satisfactory evidence to the Department of 3 years of experience in the practice of respiratory care during the 5 years immediately preceding January 1, 1996. Individuals applying under this provision have until January 1, 1996, to obtain a license. The Legislature has determined that respiratory care is a practice affecting the public health, safety and welfare. Emergency rules are necessary to assure the legal practicing respiratory care practitioners prior to the deadline for grandfather applicants.9) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes the mechanism by which individuals, who are currently respiratory care practitioners in Illinois, may apply for licensure by providing evidence to the Department of 3 years of experience in the practice of respiratory care during the 5 years immediately preceding January 1, 1996, without meeting any further requirements for licensure.10) Are there any proposed Amendments to this Part pending: Yes11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.12) Information and questions regarding these Rules shall be directed to:

Department of Professional Regulation  
 Attention: Jean Courtney  
 320 West Washington, 3rd Floor  
 Springfield, IL 62786

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULE

217/785-0813

Fax #: 217/782-7645

13) Regulatory Agenda on which this rulemaking was summarized: January 1997The full text of the Emergency Rule begins on the next page:



## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULE

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER B: PROFESSIONS AND OCCUPATIONSPART 1456  
RESPIRATORY CARE PRACTICE ACT

Section 1456.05 Application for licensure as a Respiratory Care Practitioner Under  
Section 50(b) of the Act (Grandfather)

AUTHORITY: Implementing the Respiratory Care Practice Act [225 ILCS 106] and  
authorized by Section 60(7) of the Civil Administrative Code of Illinois [20  
ILCS 2105/60(7)].

**3730**

SOURCE: Emergency amendment at 21 Ill. Reg. \_\_\_\_\_, effective March 11,  
1997, for a maximum of 150 days.

Section 1456.05 Application for licensure as a Respiratory Care Practitioner  
Under Section 50(b) of the Act (Grandfather)

**EMERGENCY**

a) Any person seeking a license under Section 50(b) of the Respiratory  
Care Practice Act (the Act) shall file an application with the  
Department, on forms provided by the Department. The application  
shall be postmarked no later than January 1, 1998, and shall include  
the following:

1) Verification of employment as a respiratory care practitioner as  
defined in Section 3 of the Act for at least 3 of the 5 years  
prior to January 1, 1996. Employment shall be documented by one  
or more of the following:

A) Certification of experience, on forms provided by the  
Department, signed by an employer; or  
B) Three affidavits submitted by peers familiar with the  
applicant's experience as a respiratory care practitioner;

2) A complete work history;

3) The applicant fee set forth in Section 75(a) of the Act;

4) Certification on forms provided by the Department, from a  
jurisdiction in which the applicant was originally licensed and  
is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that  
jurisdiction, including the date of original issuance of the  
license; and  
B) Whether the file on the applicant contains any record of  
disciplinary actions taken or pending.

b) When the accuracy of any submitted documentation or experience is  
questioned by the Department or the Board because of lack of

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF EMERGENCY RULE

information, discrepancies or conflicts in information given or a need  
for clarification, the applicant seeking licensure shall be requested  
to:

1) Provide such information as may be necessary; and/or  
2) Appear for an interview before the Board to explain such  
evidence or sufficiency, clarify information, or clear up any  
discrepancies or conflicts in information.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Numbers:  
 140.3  
 Amendment  
 140.5  
 Amendment  
 140.420  
 Amendment  
 140.421  
 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ICS 5/12-13]
- 5) Effective Date of Amendments: March 5, 1997
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: Not Applicable
- 7) Date Filed in Agency's Principal Office: March 5, 1997

8) Reason for Emergency: These emergency amendments are being filed to ensure that adult recipients in the Department's medical assistance program have reasonable access to emergency dental services. Since July 1995, when coverage for adult dental services was eliminated as a cost containment measure, medical assistance clients have been seeking emergency dental care in hospital emergency rooms. Immediate implementation of these amendments is necessary to ensure the availability of emergency dental services in appropriate and cost effective settings.

9) Complete Description of the Subjects and Issues Involved: These emergency amendments restore coverage for a limited range of emergency dental services for adults. The State's budget plan for fiscal year 1996 called for cost containment measures in some areas of the Department's medical assistance program and coverage for some optional Medicaid funded care, including dental services, was eliminated for recipients age 21 or over. This reduced medical coverage also affected recipients of financial assistance under General Assistance for the State Transitional Program and the State Family and Children Program. However, since implementation of this reduced coverage in July 1995, many medical assistance clients have sought treatment in hospital emergency rooms for emergency dental care. Because of this, it has been decided that the needs of clients and the requirements for cost containment could best be met by reinstating coverage for some emergency dental services. Sections 140.3 and 140.5 describe the population eligible for these services, and Sections 140.420 and 140.421 define the dental services to be covered.

This increase in dental coverage will result in an annual expenditure of approximately \$6 million. However, it is expected that this amount will be offset by a reduction in services provided in more costly hospital

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

- 10) Are there any Proposed Amendments pending to this Part? Yes  
 environments.
- | Sections | Proposed Action | Illinois Register Citation             |
|----------|-----------------|--|
| 140.463  | Amendment       | December 27, 1996 (20 Ill. Reg. 16153) |
| 140.569  | Amendment       | July 26, 1996 (20 Ill. Reg. 9810)      |
- 11) Statement of Statewide Policy Objectives: These emergency amendments do not affect units of local government.
- 12) Information and questions regarding these Emergency Amendments shall be directed to:

Joanne Jones  
 Rules and Regulations  
 Illinois Department of Public Aid  
 100 South Grand Avenue East, Third Floor  
 Springfield, Illinois 62762  
 Telephone: (217) 524-0081

The full text of the Emergency Amendments begins on the next page.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER 1: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER 6: MEDICAL PROGRAMS

PART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

Section  
140.1 Incorporation By Reference  
140.2 Medical Assistance Programs  
140.3 Covered Services Under Medical Assistance Programs  
140.4 Covered Medical Services Under AFPC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)  
140.5 Covered Medical Services Under General Assistance  
140.6 Medical Services Not Covered  
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFPC and Children Under Age Eighteen  
140.8 Medical Assistance For Qualified Severely Impaired Individuals  
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFPC/AFPC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatorily Categorically Need  
140.10 Medical Assistance Provided to Incarcerated Persons

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section  
140.11 Enrollment Conditions for Medical Providers  
140.12 Participation Requirements for Medical Providers  
140.13 Definitions  
140.14 Denial of Application to Participate in the Medical Assistance Program  
140.15 Recovery of Money  
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program  
140.18 Effect of Termination on Individuals Associated with Vendor  
140.19 Application, Suspension or Barred for Reinstatement Subsequent to Termination, Suspension or Barred  
140.20 Submitted Claims  
140.21 Submitted Medicaid Services for Qualified Medicare Beneficiaries (QMBs)  
140.22 Magnetic Tape Billings  
140.23 Payment of Claims  
140.24 Payment Procedures  
140.25 Overpayment or Underpayment of Claims

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

140.26 Payment to Factors Prohibited  
140.27 Assignment of Vendor Payments  
140.28 Record Requirements for Medical Providers  
140.30 Audits  
140.31 Emergency Services Audits  
140.32 Prohibition on Participation, and Special Permission for Publication of List of Terminated, Suspended or Barred Entities  
140.33 Publication of List of Terminated, Suspended or Barred Entities  
140.35 False Reporting and Other Fraudulent Activities  
140.40 Prior Approval for Medical Services or Items  
140.41 Prior Approval in Cases of Emergency  
140.42 Limitation on Prior Approval  
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained  
140.51 Recipient Eligibility Verification (REV) System  
140.55 Reimbursement for Medical Services Through the Use of a C-13 Invoice  
140.72 Voucher Advance Payment and Expedited Payments  
140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

Section  
140.80 Hospital Provider Fund  
140.81 Developmentally Disabled Care Provider Fund  
140.82 Long Term Care Provider Fund  
140.84 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund  
140.95 Hospital Services Trust Fund  
140.96 General Requirements (Recodified)  
140.97 Special Requirements (Recodified)  
140.98 Covered Hospital Services (Recodified)  
140.99 Hospital Services Not Covered (Recodified)  
140.100 Limitation on Hospital Services (Recodified)  
140.101 Transplants (Recodified)  
140.102 Heart Transplants (Recodified)  
140.103 Liver Transplants (Recodified)  
140.104 Bone Marrow Transplants (Recodified)  
140.110 Disproportionate Share Hospital Adjustments (Recodified)  
140.116 Payment for Inpatient Services for GA (Recodified)  
140.117 Hospital Outpatient and Clinic Services (Recodified)  
140.120 Payment for Hospital Services After June 30, 1982 (Recodified)  
140.201 Payment for Hospital Services During Fiscal Year 1983 (Recodified)  
140.202 Limits on Length of Stay by Diagnosis (Recodified)  
140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)  
140.350 Copayments (Recodified)  
140.360 Payment Methodology (Recodified)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Utilization Procedure (Recodified)
140.373	Utilization Targets (Recodified)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398	Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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140.411	Covered Services By Physicians
140.412	Services Not Covered By Physicians
140.413	Limitation on Physician Services
140.414	Requirements for Prescriptions and Dispensing of Items - Physicians
140.416	Optometric Services and Materials
140.417	Limitations on Optometric Services
140.418	Department of Corrections Laboratory
140.420	Dental Services
EMERGENCY	
140.421	Limitations on Dental Services
EMERGENCY	
140.422	Requirements for Prescriptions and Dispensing Items of Pharmacy
140.423	Podiatry Services
140.425	Podiatry Services
140.426	Limitations on Podiatry Services
140.427	Requirement for Prescriptions and Dispensing of Items - Podiatry

## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

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140.429	Limitations on Chiropractic Services (Repealed)
140.430	Independent Laboratory Services
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140.433	Payment for Laboratory Services
140.434	Record Requirements for Independent Laboratories
140.435	Nurse Services
140.436	Limitations on Nurse Services
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140.441	Pharmacy Services Not Covered
140.442	Prior Approval of Prescriptions
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140.453	Definitions
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140.457	Therapy Services
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140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
140.464	Speech and Hearing Clinics (Repealed)
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140.475	Will Not Be Made
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## DEPARTMENT OF PUBLIC AID

## NOTICE OF EMERGENCY AMENDMENTS

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140-490	Medical Transportation
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140-524	Cessation of Payment Due to Loss of License
140-525	Quality Incentive Program (QUIP) Payment Levels
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140-527	Quality Incentive Survey (Repealed)
140-528	Payment of Quality Incentive (Repealed)
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## DEPARTMENT OF PUBLIC AID

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 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21  
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 140.650 Certification of Developmental Training (DT) Programs  
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 140.652 Terms of Assurances and Contracts  
 140.653 Effective Date of Payment Rate  
 140.680 Discharge of Long Term Care Residents  
 140.830 Appeals of Rate Determinations  
 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

## SUBPART F: MEDICAID PARTNERSHIP PROGRAM

Section  
 140.850 General Description (Repealed)  
 140.851 Definition of Terms (Repealed)  
 140.852 Covered Services (Repealed)  
 140.853 Sponsor Responsibilities (Repealed)  
 140.854 Department Responsibilities (Repealed)  
 140.875 Provider Qualifications (Repealed)  
 140.880 Provider Responsibilities (Repealed)  
 140.885 Payment Methodology (Repealed)  
 140.890 Contract Monitoring (Repealed)  
 140.895 Reimbursement for Program Costs (Active Treatment) For Clients In Long Term Care Facilities For the Developmentally Disabled (Repealed)  
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## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section  
 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Repealed)  
 140.901 Facilities (Repealed)  
 140.902 Service Needs (Repealed)  
 140.903 Definitions (Repealed)  
 140.904 Times and Staff Levels (Repealed)  
 140.905 Statewide Rates (Repealed)  
 140.906 Reconsiderations (Repealed)

140.907 Midnight Census Report (Repealed)  
 140.908 Times and Staff Levels (Repealed)  
 140.909 Statewide Rates (Repealed)  
 140.910 Referrals (Repealed)  
 140.911 Basic Rehabilitation Aide Training Program (Repealed)  
 140.912 Interim Nursing Rates (Repealed)  
 140.920 General Description  
 140.922 Covered Services  
 140.924 Maternal and Child Health Provider Participation Requirements  
 140.926 Client Eligibility (Repealed)  
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## SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

Section  
 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Repealed)  
 140.942 Definition of Terms (Repealed)  
 140.944 Notification of Negotiations (Repealed)  
 140.946 Hospital Participation in ICARE Program Negotiations (Repealed)  
 140.948 Negotiation Procedures (Repealed)  
 140.950 Factors Considered in Awarding ICARE Contracts (Repealed)  
 140.952 Closing an ICARE Area (Repealed)  
 140.954 Administrative Review (Repealed)  
 140.956 Payments to Contracting Hospitals (Repealed)  
 140.958 Admitting and Clinical Privileges (Repealed)  
 140.960 Payable to Hospitals (Repealed)  
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 140.968 Validity of Contracts (Repealed)  
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## Medicaid Recommended Screening Procedures (Repealed)

TABLE A Health Service Areas  
 TABLE B Capital Cost Areas  
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 TABLE D Time Limits for Processing of Prior Approval Requests  
 TABLE E Podiatry Service Schedule  
 TABLE F Travel Distance Standards  
 TABLE G Rates of Major Life Activity  
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## TABLE K Services Qualifying for 10% Add-On (Repealed)

TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)

## TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing Article XII of the Illinois Health Finance Reform Act (20 ILCS 2215/Art. XII) and implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code (305 ILCS 5/Arts. III, IV, V, VI and 12-13).

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 8 Ill. Reg. 8374, effective July 6, 1982; 8 Ill. Reg. 8508, effective July 6, 1984, for a maximum of 150 days; amended at 7 Ill. Reg. 6891, effective July 6, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; amended at 7 Ill. Reg. 8354, effective July 5, 1983; amended at 7 Ill. Reg. 8540, effective July 5, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 8296, effective June 16, 1984; emergency amendment at 8 Ill. Reg. 10032, effective June 16, 1984; amended at 8 Ill. Reg. 10062, effective June 20, 1984; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Reg. 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21677, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4697, effective February 22, 1985; amended at 9 Ill. Reg. 5684, effective April 19, 1985; amended at 9 Ill. Reg. 5684, effective May 28, 1985; amended at 9 Ill. Reg. 5953, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 113407, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective

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July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 11457, effective August 7, 1986; amended at 11 Ill. Reg. 16739, effective September 18, 1986; amended at 11 Ill. Reg. 16739, effective September 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2123, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Reg. 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 15787, effective September 1, 1987; amended at 11 Ill. Reg. 17795, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20809, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.912 and 140.912 Table A and 140.912 Table B to 89 Ill. Reg. 140.912 and 140.912 Table A and 140.912 Table B to 89 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Reg. 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12059, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 10738, effective October 5,



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1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14835, effective October 6, 1995; amended at 19 Ill. Reg. 15461, effective November 6, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. ~~9734~~ **9734**, effective March 5, 1997.

## SUBPART A: GENERAL PROVISIONS

## Section 140.3 Covered Services Under Medical Assistance Programs

Emergency

- a) As described in this Section, medical services shall be covered for:
  - 1) recipients of financial assistance under the AABD (Aid to the Aged, Blind or Disabled), AFDC (Aid to Families with Dependent Children), or Refugee/Entrant/Repatriate programs;
  - 2) recipients of medical assistance only under the AABD program (AABD-WANG);
  - 3) recipients of medical assistance only under the AFDC program (AFDC-WANG);
  - 4) individuals under age 18 not eligible for AFDC (see Section 140.7), pregnant women who would be eligible if the child were born and pregnant women and children under age eight who do not qualify as mandatory categorically needy (see Section 140.9);
  - 5) disabled persons under age 21 who may qualify for Medicaid and in-home care (Model Waiver); and
  - 6) recipients eligible under the State Transitional Assistance Program who are determined by the Department to be disabled.
- b) The following categories of recipients shall be covered for recipients under age 21 who are included under subsection (a) above:
  - 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;

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- 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;
  - 6) Pharmacy services;
  - 7) Home health agency visits;
  - 8) Laboratory and x-ray services;
  - 9) Group care services;
  - 10) Family planning services and supplies;
  - 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
  - 12) Transportation to secure medical services;
  - 13) Podiatry services;
  - 14) Podiatric services;
  - 15) Chiropractic services;
  - 16) Podiatric services;
  - 17) Optical services and supplies;
  - 18) Substance alcoholism and substance abuse services pursuant to Sections 140.390 through 140.396; and
  - 19) Hospice services.
- c) The following medical services shall be covered for recipients age 21 or over who are included under subsection (a) above:
- 1) Inpatient hospital services;
  - 2) Hospital outpatient and clinic services;
  - 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment;
  - 4) Encounter rate clinic visits;
  - 5) Physician services;
  - 6) Pharmacy services; visits;
  - 7) Home health agency visits;
  - 8) Laboratory and x-ray services;
  - 9) Group care services;
  - 10) Family planning services and supplies;
  - 11) Medical supplies, equipment, prostheses and orthoses, and respiratory equipment and supplies;
  - 12) Transportation to secure medical services;
  - 13) Podiatry services;
  - 14) Podiatric services;
  - 15) Chiropractic services;
  - 16) Podiatric services; and
  - 17) Hospice services; and
  - 18) Adult emergency dental services as defined in Section 140.42(a).

(Source: Emergency amendment at 21 Ill. Reg. ~~3734~~ **3734**, effective March 5, 1997, for a maximum of 150 days)

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## Section 140.5 Covered Medical Services Under General Assistance

## EMERGENCY

a) The following medical services shall be covered for recipients of financial assistance under General Assistance for the State Transitional Assistance Program and the State Family and Children Assistance Program:

- 1) Encounter rate clinic visits;
- 2) Physician services;
- 3) Vital pharmacy services (items necessary for life maintenance or to avoid life threatening situations);
- 4) Vital medical supplies and equipment;
- 5) Group care services, subject to prior approval;
- 6) Family planning services;
- 7) Laboratory and x-ray services;
- 8) Transportation to secure medical services;
- 9) Prostheses, orthoses (only when essential for employment or expediting hospital discharge);
- 10) Home health agency visits (only on a prior approval basis when the medical condition is documented by the physician as being impaired);
- 11) Hospice services; and
- 12) Adult emergency dental services.

b) The following medical services shall be covered for recipients of financial assistance under General Assistance only for the State Family and Children Assistance Program, not the State Transitional Assistance Program, in addition to the services covered under subsection (a) above:

- 1) Inpatient hospital services. (Physical rehabilitation services and psychiatric services are not covered for General Assistance recipients age 18 or over);
- 2) Hospital outpatient and clinic services for surgical procedures, renal dialysis or cancer therapy; and
- 3) Hospital emergency room visits. The visit must be for the alleviation of severe pain or for immediate diagnosis and/or treatment of conditions or injuries which might result in disability or death if there is not immediate treatment.

(Source: Emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section 140.420 Dental Services

## EMERGENCY

a) Payment for dental services shall be made only to licensed dentists. Payment for comprehensive orthodontic care shall be made only to a dentist licensed for provision of such services.

- b) Except for the "services not covered" specified in subsection (c) below, payment shall be made for dental services that are:
  - 1) Necessary to relieve pain or infection. Preserve teeth, or prevent subsequent dental infection;
  - 2) Diagnostic, preventive, or restorative services, endodontics, prosthodontics, orthodontics or oral surgery included in the Department's Schedule of Dental Procedures (see Table D at the end of this part);
  - 3) Performed by the dentist or under the direct supervision of the dentist.

c) Services for which payment shall not be made include:

- 1) Routine or periodic examination other than:
  - A) Initial examinations;
  - B) Required school examinations;
  - C) Periodic examinations for children with minimum of 12 months having elapsed since initial or previous periodic examination;
- 2) Adult non-emergency dental services (see Section 140.421);
- 3) Partial dentures--bridges--pontics--for adults--persons over age 21--to close an open end of a root--and periodontics--for adults--orthodontics--posterior endodontics--apexification--(a--procedure to close an open end of a root)--and periodontics--for adults--to close an open end of a root;
- 3) Experimental dental care:
  - 3) Procedures performed only for cosmetic reasons;
  - 3) Acrylic crowns;
  - 3) Fluoride for adults;
  - 3) Space maintainers--for adults;
  - 3) Alveoplasty--(surgical--preparation of gum ridge for denture) and frenectomy--cutting through--soft--tissue--impeding--tongue movement--for adults;

(Source: Emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days)

## Section 140.421 Limitations on Dental Services

## EMERGENCY

a) Dental services for recipients age 21 and older are covered for only a limited range of emergency dental services.

- 1) Emergency dental services are described as those dental procedures necessary to treat pain in the teeth, gums, palate or any other problem of the mouth that requires immediate attention and is appropriately treated by a dentist.
- 2) Prior to payment, each claim will be reviewed for medical necessity and for true emergency status.

b) Prior approval is required for:

- 1) Space maintainers (will not be approved for an adult--as defined in Section 140.420(c)(2));
- 2) Crowns;

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- 3) Endodontics;
- 4) Periodontics;
- 5) Dental Radiology;
- 6) Bridge work;
- 7) Orthodontics ~~twill--not--be--approved--for--an--adult--as--defined--in~~ Section-149-240(c)(1)(2)(3). Medically necessary orthodontic treatment is approved for children. The Department's consultant shall make these determinations. Medically necessary orthodontic treatment is defined as:
  - A) treatment necessary to correct a condition which scores 42 points or more on the Salzmann Index, or
  - B) treatment necessary to correct a condition that constitutes a handicapping malocclusion, defined as an impairment of or a hazard to the ability to eat, chew, speak or breathe that is related to the malocclusion.
- 8) Extractions of impacted teeth;
- 9) Alveoloplasty ~~twill--not--be--approved--for--an--adult--as--defined--in~~ Section-149-240(c)(1)(2)(3);
- 10) Dental Radiology;
- 11) Periodontics ~~twill--not--be--approved--for--an--adult--as--defined--in~~ Section-149-240(c)(1)(2)(3);
- 12) Analgesia (nitrous oxide);
- 13) Dental procedures not included in the Department's Schedule of Dental Procedures (See Table D at the end of this Part).

14) The dentist may request post-approval when a dental procedure requiring prior approval is provided on an emergency basis. Approval of the procedures shall be given if, in the judgment of a consulting dentist of the Department or a consulting dental service, the procedure is necessary to prevent dental disease or to restore and maintain adequate dental function to assure good bodily health and the well-being of the patient.

15) Payment for complete and partial dentures is limited to one set every five years if necessary to replace lost, broken or unusable dentures; payment for a bridge is limited to once in five years.

16) Be reimbursed only if there has not been placement of a partial denture within five years.

17) Root canal, verification and apicoectomy procedures are covered for children for anterior teeth, bicuspids, and permanent first molars. Root canals are covered for adults only for anterior teeth.

18) Full mouth series of x-rays are covered only once every three years.

(Source: Emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days)

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

- 1) Heading of the Part: Health Facilities Planning Procedural Rules
- 2) Code Citation: 77 Ill. Adm. Code 1130
- 3) Section Numbers:  
1130.720  
1130.750  
1130.770  
Appendix A
- 4) Date Proposal Published in Illinois Register: June 17, 1994, 18 Ill Reg. 8867 and 8861
- 5) Date Addition Published in Illinois Register: March 10, 1995, 19 Ill Reg. 2972
- 6) Date Request for Expedited Correction Published in Illinois Register: January 24, 1997
- 7) Adoption Effective Date: March 1, 1995
- 8) Correction Effective Date: March 1, 1995
- 9) Reason for Approval of Expedited Correction: The Board originally planned to adopt its rulemaking prior to January 15, 1995, thus the text indicated the provisions would be effective on that date. However, filing of the rulemaking was delayed until March 1. The Board discussed the delay with JCAN and revised text indicating the March 1 effectiveness provision was provided. Inadvertently, the original text was filed rather than the revised text. As a rulesmaking cannot be retroactive, the filed text needs to be changed to indicate that the provisions were actually effective on March 1, 1995.

The full text of the Corrected Rule begins on the following page:

Agency Director	Date
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## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

## TITLE 77: PUBLIC HEALTH

## CHAPTER 11: HEALTH FACILITIES

## SUBCHAPTER B: OTHER BOARD RULES

PART 1130  
HEALTH FACILITIES PLANNING PROCEDURAL RULES

## SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section  
1130.110 Statutory Authority/Applicability  
1130.120 Public Hearings  
1130.130 Purpose  
1130.140 Definitions  
1130.150 Incorporated Materials

## SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section  
1130.210 Persons Subject to the Act  
1130.220 Necessary Parties to the Application for Permit or Exemption

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section  
1130.310 Transactions Subject to Review

## SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section  
1130.410 Transactions Which Are Exempt from Review

## SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section  
1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment  
1130.520 Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility  
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)  
1130.540 Requirements for Exemptions Involving Involuntary Discontinuation  
1130.550 Agency Processing of an Application for Exemption  
1130.560 State Board Action  
1130.570 Validity of an Exemption

## SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

## APPLICATIONS FOR PERMIT

Section  
1130.610 Duration of the Review Period and Time Frames  
1130.620 Consultation, Classification and Completeness Review  
1130.630 Agency Actions During the Review Period  
1130.640 Extension of the Review Period Prior to Initial State Board Action  
1130.650 Modification of an Application  
1130.660 Approval of an Application  
1130.670 Notice of Intent-to-Deny an Application  
1130.680 Denial of an Application

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section  
1130.710 Validity of Permits  
1130.720 Authorization to Obligate and Obligation  
1130.730 Extension of the Obligation Period  
1130.740 Renewal of a Permit  
1130.750 Alteration of a Project for which a Permit Has Been Issued  
1130.760 Semi-Annual Progress Reports  
1130.770 Project Completion, Final Realized Costs and Cost Overruns  
1130.780 Revocation of a Permit  
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and the State Board's Rules

## SUBPART H: DECLARATORY RULINGS

Section  
1130.810 Declaratory Rulings

## APPENDIX A Annual Inflation Adjustments to Review Thresholds

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act (111. Rev. Stat. 1991, ch. 111 1/2, pars. 1151 et seq.) [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1993; modified at 20 Ill. Reg. 2597; expedited correction at 21 Ill. Reg. 3333, effective March 1, 1995.





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## NOTICE OF EXPEDITED CORRECTION

- 2) A request for alteration reviewed by the State Board is subject to the provisions of 77 Ill. Adm. Code 1110.1210-30, or 1120, which are applicable to the individual project. Any proposed increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. Such components and any other proposed alterations to a project which would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application. The Agency shall revise the permit for alteration. The Agency shall adjust the permit amount accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.
- f) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.
- g) Seven affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.
- h) Any alteration without State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.

(Source: Expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995)

## Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

Each permit holder shall notify the State Agency regarding completion of the project.

- a) For projects with no cost, the permit holder must submit a written notice of project completion to the Agency. Such notice is required only when a completion date has not been determined by the Agency pursuant to Section 1130.140(g).
- b) For projects which have costs that will be submitted for reimbursement pursuant to Titles XVIII and XIX of the Social Security Act, the permit holder must submit a report of final realized costs containing the following:
- 1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;
  - 2) a certification that those project costs which have been or will be submitted for reimbursement pursuant to Titles XVIII and XIX;
  - 3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

- or associated costs or capital expenditures related to the project which will be submitted for reimbursement under Title XVIII or XIX;
- 4) verification of the required information signed by two officers of the legal entity that is the permit holder.
- c) For projects which have costs that will not be submitted for reimbursement pursuant to Title XVIII and XIX of the Social Security Act, the permit holder must submit a report of final realized cost containing the following:
- 1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;
  - 2) a certification of the expenditures and sources of funds by an independent auditor;
  - 3) verification that the final realized costs are the total costs required to complete the project and that there are no additional or associated capital expenditures related to the project. The verification is to be signed by two officers of the legal entity that is the permit holder.
  - d) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete until the required report is filed.
  - e) All permits for projects which are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by the State Board (reference Section 1130.710 and 1130.740).
  - f) For projects approved prior to the March 1, 1995 January-1995, if the final realized cost exceeds the originally approved permit amount or revised permit amount (if less than the original amount) by more than ten percent, the amount over ten percent shall be considered a cost overrun without a permit unless subsequently approved by the State Board.
  - g) For projects which have an altered permit amount approved by the State Board, regardless of permit or alteration approval date, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit unless subsequently approved by the State Board.
  - h) For projects approved subsequent to March 1, 1995 January-1995, any amount of the final realized cost that exceeds the permit amount shall be considered a cost overrun without a permit unless subsequently approved by the State Board.
  - i) Any project with a cost overrun shall not be complete until such time as the State Board determines that the project is complete.

(Source: Expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995)

## HEALTH FACILITIES PLANNING BOARD

## NOTICE OF EXPEDITED CORRECTION

## Section 1130. APPENDIX A Annual Inflation Adjustments to Review Thresholds

## 1. Capital Expenditures (Other than Major Medical Equipment):

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$2,000,000	1.035	\$2,070,000	
\$2,070,000	1.035	\$2,121,750	October 1, 1991
\$2,121,750	1.035	\$2,157,820	March 26, 1993
\$2,157,820	1.027	\$2,216,448	March 1, 1995
\$2,216,448	1.074	\$2,357,193	January 15, 1995

## 2. Major Medical Equipment:

Baseline	Inflation Factor	Revised Review Threshold	Effective Date of Revision
\$1,000,000	1.028	\$1,028,000	
\$1,028,000	1.049	\$1,078,372	October 1, 1991
\$1,078,372	1.037	\$1,118,272	March 26, 1993
\$1,118,272	1.036	\$1,158,530	March 1, 1995
\$1,158,530	1.023	\$1,185,176	January 15, 1995

## 3. Calculation of Inflation Factors:

Inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1st of the preceding calendar year to July 1st of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the preceding year and compared to the preceding year. A growth in costs of five percent during this preceding year. A growth in costs of five percent during this preceding year would result in an inflation factor of 1.05.

4. Some medical equipment would result in an inflation factor of 1.05. The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the Hospitals component of Square Footage, Cubic Feet and Percent of Total Costs (Item 460) from "Building Construction Cost Data 1990, 48th Annual Edition."

\*The baseline threshold amounts have been adjusted for inflation for the period of 1988 to 1989. The calculated adjustment shown reflects the 1989 to 1990 time period.

(Source: Expedited correction at 21 Ill. Reg. \_\_\_\_\_, effective March 1, 1995)

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## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.5 Subpart F, the following water quality criteria have been derived as listed. This listing includes only the waterbodies for which water quality criteria have been used during the period November 1, 1996 through January 31, 1997.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18994, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 20, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; and 20 Ill. Reg. 15619, December 6, 1996.

Chemical: Acenaphthene Acute criterion: 124 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.	CAS #83-32-9 Chronic criterion: 9.9 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.
Chemical: Acetone Acute criterion: 1,530 mg/l Date criteria derived: May 25, 1993 Applicable waterbodies: Not used during this period.	CAS #67-64-1 Chronic criterion: 122 mg/l Date criteria derived: May 25, 1993 Applicable waterbodies: Not used during this period.
Chemical: Acetonitrile Acute criterion: 375 mg/l Date criteria derived: December 7, 1993 Applicable waterbodies: Not used during this period.	CAS #75-05-8 Chronic criterion: 30 mg/l Date criteria derived: December 7, 1993 Applicable waterbodies: Not used during this period.
Chemical: Acrylonitrile Acute criterion: 910 ug/l Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.	CAS #107-13-4 Chronic criterion: 73 ug/l Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Anthracene Human health criterion (HNC): 35 ug/l Date criteria derived: August 18, 1993 Applicable waterbodies: Not used during this period.	CAS #120-12-7
Chemical: Benzene Acute criterion: 5,200 ug/l Human health criterion (HNC): 21 ug/l Date criteria derived: August 15, 1990 Applicable waterbodies: Not used during this period.	CAS #71-43-2 Chronic criterion: 416 ug/l
Chemical: Benzo(a)anthracene Human health criterion (HNC): 0.01 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #56-55-3
Chemical: Benzo(b)pyrene Human health criterion (HNC): 0.01 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #50-32-9
Chemical: Benzo(k)fluoranthene Human health criterion (HNC): 0.01 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #205-99-2
Chemical: Benzo(k)fluoranthene Human health criterion (HNC): 0.01 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #207-08-9

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Carbon tetrachloride Acute criterion: 3,500 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.	CAS #56-23-5 Chronic criterion: 280 ug/l
Chemical: Chlorobenzene Acute criterion: 933 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.	CAS #108-90-7 Chronic criterion: 79 ug/l
Chemical: Chloroform Acute criterion: 1,870 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #67-66-3 Chronic criterion: 150 ug/l
Chemical: Chrysene Human health criterion (HNC): 0.01 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #218-01-9
Chemical: 1,2-dichlorobenzene Acute criterion: 210 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.	CAS #95-50-1 Chronic criterion: 16.8 ug/l
Chemical: 1,3-dichlorobenzene Acute criterion: 500 ug/l Date criteria derived: July 31, 1991 Applicable waterbodies: Not used during this period.	CAS #541-73-1 Chronic criterion: 196 ug/l

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 1,1-dichloroethane Acute criterion: 24,900 ug/l Human health criterion (RNC): 23 ug/l Date criteria derived: March 19, 1992 Applicable waterbodies: Not used during this period.	CAS #107-06-2 Chronic criterion: 4,540 ug/l
Chemical: 1,1-dichloroethylene Acute criterion: 3,030 ug/l Human health criterion (RNC): 0.95 ug/l Date criteria derived: March 20, 1992 Applicable waterbodies: Not used during this period.	CAS #75-35-4 Chronic criterion: 242 ug/l
Chemical: 2,4-dichlorophenol Acute criterion: 631 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.	CAS #120-83-2 Chronic criterion: 83.1 ug/l
Chemical: 1,2-dichloropropane Acute criterion: 4,800 ug/l Date criteria derived: December 7, 1993 Applicable waterbodies: Not used during this period.	CAS #78-87-5 Chronic criterion: 380 ug/l
Chemical: 1,3-dichloropropylene Acute criterion: 99 ug/l Date criteria derived: November 13, 1991 Applicable waterbodies: Not used during this period.	CAS #542-75-6 Chronic criterion: 7.9 ug/l
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol Acute criterion: 28.8 ug/l Date criteria derived: November 14, 1991 Applicable waterbodies: Not used during this period.	CAS #534-52-1 Chronic criterion: 2.3 ug/l

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: 2,4-dinitrophenol Acute criterion: 45.3 ug/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.	CAS #51-28-5 Chronic criterion: 4.07 ug/l
Chemical: 2,6-dinitrotoluene Acute criterion: 1,910 ug/l Date criteria derived: February 14, 1992 Applicable waterbodies: Not used during this period.	CAS #606-20-2 Chronic criterion: 153 ug/l
Chemical: diquat Acute criterion: 1,330 ug/l Date criteria derived: January 30, 1996 Applicable waterbodies: 07130003-025/off Mink Slough to Illinois River	CAS #85-00-7 Chronic criterion: 106 ug/l
Chemical: Ethylbenzene Acute criterion: 216 ug/l Date criteria derived: August 15, 1990, revised May 17, 1991 Applicable waterbodies: 07120003-005/off Calumet Sag Channel 07120004-012/off Wheeling Drainage Ditch to Des Plaines River 07120007-025/off Welch Creek	CAS #100-41-4 Chronic criterion: 17.2 ug/l
Chemical: Fluoranthene Human health criterion (RNC): 120 ug/l Date criteria derived: August 10, 1993 Applicable waterbodies: Not used during this period.	CAS #206-44-0
Chemical: Hexachlorobenzene Human health criterion (RNC): 0.00025 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	CAS #118-74-1

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Hexachlorobutadiene Acute criterion: 34.5 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #87-68-3 Chronic criterion: 2.76 ug/l
Chemical: Hexachloroethane Acute criterion: 381 ug/l Human health criterion (HHC): 2.9 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	CAS #67-72-1 Chronic criterion: 30.5 ug/l
Chemical: Isobutyl alcohol = 2-methyl-1-propanol Acute criterion: 434 mg/l Date criteria derived: December 1, 1993 Applicable waterbodies: Not used during this period.	CAS #78-83-1 Chronic criterion: 34.8 mg/l
Chemical: Methylene chloride Acute criterion: 17,200 ug/l Human health criterion (HHC): 140 ug/l Date criteria derived: January 11, 1992 Applicable waterbodies: Not used during this period.	CAS #75-09-2 Chronic criterion: 1,380 ug/l
Chemical: Methyl ethyl ketone Acute criterion: 322,000 ug/l Date criteria derived: July 1, 1992 Applicable waterbodies: Not used during this period.	CAS #78-93-3 Chronic criterion: 26,000 ug/l
Chemical: 4-methyl-2-pentanone Acute criterion: 46 mg/l Date criteria derived: January 13, 1992 Applicable waterbodies: Not used during this period.	CAS #108-10-1 Chronic criterion: 3.68 mg/l

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Chemical: Naphthalene Acute criterion: 670 ug/l Date criteria derived: November 7, 1991 Applicable waterbodies: Not used during this period.	CAS #91-20-3 Chronic criterion: 68 ug/l
Chemical: Nitrobenzene Acute criterion: 15.4 mg/l Human health criterion (HHC): 0.52 mg/l Date criteria derived: February 14, 1992 Applicable waterbodies: Not used during this period.	CAS #98-95-3 Chronic criterion: 4.67 mg/l
Chemical: Pentachlorophenol Acute criterion: 20 ug/l Date criteria derived: national criterion, September 1986 Applicable waterbodies: Not used during this period.	Chronic criterion: 13 ug/l
Chemical: Phenanthrene Acute criterion: 16 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #85-01-8 Chronic criterion: 3.7 ug/l
Chemical: Pyrene Human health criterion (HHC): 3,500 ug/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Tetrachloroethylene Acute criterion: 1,140 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #127-18-4 Chronic criterion: 152 ug/l



## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

Chemical: Trichloroethylene Date criteria derived: March 16, 1992 Applicable waterbodies: Not used during this period	CAS #109-59-9 Chronic criterion: 11,320 ug/l
Chemical: Toluene Date criteria derived: August 16, 1990, revised May 17, 1991 and January 26, 1993 Applicable waterbodies: Not used during this period	CAS #108-88-3 Chronic criterion: 648 ug/l
Chemical: 1,2,4-trichlorobenzene Date criteria derived: December 14, 1993 Applicable waterbodies: Not used during this period	CAS #120-82-1 Chronic criterion: 69.2 ug/l
Chemical: 1,1,1-trichloroethane Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period	CAS #71-55-6 Chronic criterion: 399 ug/l
Chemical: 1,1,2-trichloroethane Date criteria derived: December 13, 1993 Applicable waterbodies: Not used during this period	CAS #79-00-5 Chronic criterion: 3,540 ug/l

Chemical: Trichloroethylene Date criteria derived: October 23, 1992 Applicable waterbodies: Not used during this period	CAS #109-59-9 Chronic criterion: 140 ug/l
Chemical: Toluene Date criteria derived: August 23, 1990 Applicable waterbodies: Not used during this period	CAS #108-88-3 Chronic criterion: 11 ug/l
Chemical: 1,2,4-trichlorobenzene Date criteria derived: December 13, 1993 Applicable waterbodies: Not used during this period	CAS #120-82-1 Chronic criterion: 69.2 ug/l

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Bob Mather  
Illness Environmental Protection Agency  
Chemicals and Hazardous Waste Control  
2200 Churchill Road  
Post Office Box 19276  
Springfield, Illinois 62779-0276  
217/782-3502

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF PUBLIC MEETING

Notice is hereby given that the State Banking Board of Illinois will hold its regularly scheduled meeting on Thursday, March 20, 1997, in the Illinois Authors Room at the Illinois State Library, 300 South Second Street, Springfield, Illinois. The meeting of the State Banking Board of Illinois will begin at 10:30 a.m. The meeting will be open to the public in accordance with the Open Meetings Act, 5 ILCS 120/1-120/6 (1994).

This meeting will be accessible to handicapped individuals in compliance with Executive Order #5 and pertinent State and federal laws upon notification of anticipated attendance. Handicapped persons planning to attend and needing special accommodations should contact, either by telephone or by letter, Debra Rath, 500 East Monroe, Springfield, Illinois 62701 or (217)782-3000 to inform of their anticipated attendance.

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATIONS

## DEPARTMENT OF AGRICULTURE

Date: February 19, 1997

Agency: Department of Agriculture

Heading of the Part: Egg and Egg Products Act

Code Citation: 8 Ill. Adm. Code 65

Section Numbers: 65.90 and 65.190

Register Citations: 20 Ill. Reg. 12458, 9/20/96

**Joint Committee Recommendation:** At its December 17, 1996 meeting, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that the Department of Agriculture continue their efforts, along with the Department of Public Health, the United States Department of Agriculture, and the Food and Drug Administration to develop uniform egg holding, temperature that will ensure the safety of the product to the consumer. Additionally, the agency is requested to report back to JCAR by December, 1997 on the success of its efforts to resolve the remaining conflicts with respect to this issue.

**Agency Response:** The Department of Agriculture agrees to continue efforts to work with the Department of Public Health and, to the extent possible, the USDA and FDA to develop a uniform egg holding temperature. The Department of Agriculture will report back to JCAR by December, 1997 of the results of its efforts to resolve this issue.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of March 1, 1997 through March 15, 1997 and have been scheduled for a public hearing by the Joint Committee at its next meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield, IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
4/17/97	Illinois Racing Board, Repeal of Public Information, Rulemaking and Organization (2 Ill Adm Code 2250)	1/17/97 21 Ill Reg 867	4/15/97
4/17/97	Illinois Racing Board, Repeal of Access to Information about the Illinois Racing Board (2 Ill Adm Code 2251)	1/17/97 21 Ill Reg 820	4/15/97
4/17/97	Illinois Racing Board, Public Information (11 Ill Adm Code 200)	1/17/97 21 Ill Reg 862	4/15/97
4/17/97	Illinois Racing Board, Rulemaking (11 Ill Adm Code 201)	1/17/97 21 Ill Reg 878	4/15/97
4/17/97	Illinois Racing Board, Discipline Rules (11 Ill Adm Code 211)	1/17/97 21 Ill Reg 835	4/15/97
4/17/97	Illinois Racing Board, Prohibited Conduct (11 Ill Adm Code 212)	1/17/97 21 Ill Reg 855	4/15/97
4/17/97	Illinois Racing Board, Race Track Improvement Fund (11 Ill Adm Code 404)	1/17/97 21 Ill Reg 874	4/15/97
4/17/97	Illinois Racing Board, Repeal of Prohibited Conduct (11 Ill Adm Code 423)	1/17/97 21 Ill Reg 852	4/15/97

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

4/17/97	Illinois Racing Board, Repeal of Forbidden Conduct (11 Ill Adm Code 1320)	1/17/97 21 Ill Reg 841	4/15/97
4/17/97	Illinois Racing Board, Repeal of Corrupt Practices (11 Ill Adm Code 1422)	1/17/97 21 Ill Reg 829	4/15/97
4/17/97	Illinois Racing Board, Repeal of Horse Health Rules (11 Ill Adm Code 1431)	1/17/97 21 Ill Reg 847	4/15/97
4/18/97	Department of Insurance, Prior Notification of Dividends on Common Stock and Other Distributions (50 Ill Adm Code 855)	11/8/96 20 Ill Reg 14362	4/15/97
4/20/97	Office of Banks and Real Estate, Real Estate Appraiser Certification (68 Ill Adm Code 1455)	1/17/97 21 Ill Reg 793	4/15/97
4/23/97	Department of Corrections, Health Care (20 Ill Adm Code 415)	1/10/97 21 Ill Reg 516	4/15/97
4/23/97	Department of Corrections, School District #428 (20 Ill Adm Code 405)	1/10/97 21 Ill Reg 518	4/15/97

PROCLAMATIONS

97-74  
EARLY INTERVENTION MONTH/LOOK WHAT I CAN DO WEEK (REVISED)

Whereas, early intervention services exist for children up to three years of age who may have been or are currently at risk of disabilities, developmental delays or at-risk conditions; and

Whereas, there is a statewide, family-centered early intervention system in place established with the assistance of the Illinois Interagency Council on Early Intervention to help eligible children who are in need of early intervention services; and

Whereas, Look What I Can Do is a public awareness campaign designed to educate families, policymakers, health care and child care professionals about the importance of reaching children early with the services essential to their growth and development; and

Whereas, this campaign emphasizes the importance of early intervention for all children and coordinated effort at both the State and local levels to create a unified message;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1997 as EARLY INTERVENTION MONTH and April 1-7, 1997, as LOOK WHAT I CAN DO WEEK in Illinois.

Issued by the Governor March 4, 1997.

Filed by the Secretary of State March 6, 1997.

97-101  
CHICAGO BUSINESS OPPORTUNITY DAYS

Whereas, the 30th Anniversary Chicago Business Opportunity Fair will be held April 2-3, 1997, and is of special interest to Chicago-based businesses; and

Whereas, the fair will provide minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and

Whereas, 30th Anniversary Chicago Business Opportunity Fair assists in advancing the year-round efforts of the Chicago Minority Business Development Council, Inc., an organization devoted to stimulating minority purchasing in Chicago and the sponsor of the fair; and

Whereas, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 19th Annual Awards Program and Celebration on April 2, 1997, in honor of public and private sector representatives for their contributions to minority suppliers' growth and development;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 2-3, 1997, as CHICAGO BUSINESS OPPORTUNITY DAYS in Illinois.

Issued by the Governor February 27, 1997.

Filed by the Secretary of State March 6, 1997.

97-102  
GREGORY H. WINTROUB DAY

Whereas, Gregory H. Wintroub was born in Chicago on March 25, 1947, to Ruth and Bennett Wintroub; and



Issued by the Governor, February 27, 1997.  
Filed by the Secretary of State March 6, 1997.

## 97-107

## STOP THE VIOLENCE MONTH

Whereas, every year thousands of citizens are victims of violent crime; and

Whereas, citizens should continue to work together to halt the spread of violence across our country; and

Whereas, those who strive to make their neighborhoods safer should be commended for their efforts; and

Whereas, efforts to educate on the fundamental causes of violence and solutions to curb violence will be emphasized during the month of April;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 1997 as STOP THE VIOLENCE MONTH in Illinois.

Issued by the Governor February 27, 1997.  
Filed by the Secretary of State March 6, 1997.

## 97-108

## STUDENT-ATHLETE DAY

Whereas, student-athletes who balance academics and athletics should be looked to as role models for the youth of America; and

Whereas, many former student-athletes become this country's business, governmental, community and educational leaders, proving they are successful away from the game; and

Whereas, the academic and social pursuits of student-athletes require perseverance, teamwork, self-discipline, commitment, and the belief in racial, gender and ethnic equality; and

Whereas, it takes tremendous dedication and hard work for a student-athlete to successfully juggle schoolwork, athletic training and social activities; and

Whereas, athletes concentrate on the joy and skill of the game rather than just the victory; and

Whereas, thousands of America's youth use their athletic ability to obtain an education and develop skills to help them throughout life; and

Whereas, coaches, parents and educators express the highest expectations for academic performance and athletic performance;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 6, 1997, as STUDENT-ATHLETE DAY in Illinois.

Issued by the Governor February 27, 1997.  
Filed by the Secretary of State March 6, 1997.

## 97-109

## SHARED HOUSING WEEK

Whereas, shared housing, innovative programs that match unrelated individuals to share homes and apartments, provides affordable living arrangements that offer economic benefit, companionship and personal assistance for thousands of Illinois citizens; and

Whereas, shared housing offers older adults and people with disabilities a

housing alternative that enables them to remain in their community; and

Whereas, shared housing provides an economical housing option to people of all ages in transitional periods such as divorce, loss of a spouse, company downsizing or educational pursuits; and

Whereas, shared housing offers home providers a source of income, increased security, help with everyday chores, personal care and other supportive assistance that allow them to continue living an independent, productive lifestyle; and

Whereas, shared housing programs are sponsored by recognized community-based, non-profit social service, health and welfare organizations where home matches are carefully screened and monitored by professionals to insure a compatible match; and

Whereas, shared housing benefits society by reducing the need for Medicaid subsidized institutionalization, reduces the demand for scarce subsidized housing and provides a better quality standard of living for all participants; and

Whereas, the Illinois Shared Housing Coalition recognizes the need to increase state and community awareness for shared housing programs;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 18-24, 1997, as SHARED HOUSING WEEK in Illinois.

Issued by the Governor February 27, 1997.  
Filed by the Secretary of State March 6, 1997.

## 97-110

## SMILES FOR LITTLE CITY DAYS

Whereas, for 37 years, Little City Foundation has been a nationally recognized leader in providing programs and services for persons with developmental challenges; and

Whereas, on October 16-18, 1997, Little City Foundation will hold its annual "Smiles for Little City" Tag Days throughout the state; and

Whereas, this annual tradition is made possible through the efforts of hundreds of Illinois residents who unselfishly volunteer their time and effort under the leadership of the Little City Foundation Parent/Family/Guardian Group; and

Whereas, they are ably supported by government, business and labor leaders across the state; Jim Edgar, Governor of the State of Illinois, proclaim October 16-18, 1997, as SMILES FOR LITTLE CITY DAYS in Illinois.

Issued by the Governor February 27, 1997.  
Filed by the Secretary of State March 6, 1997.

## 97-111

## WRITE A LETTER OF APPRECIATION WEEK

Whereas, it is right and courteous to extend thanks to people who have helped others and shown them kindness; and

Whereas, it takes only a few minutes to write a letter of appreciation or thank you to a person or persons who have gone out of their way to be kind or helpful; and

Whereas, extending the common courtesy of thanks and being appreciative and gracious for the little things in life is certainly proper; and

Whereas, the second annual Write a Letter of Appreciation Week will be

held March 1-7, 1997:

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 1-7, 1997, as WRITE A LETTER OF APPRECIATION WEEK in Illinois.

Issued by the Governor February 28, 1997.

Filed by the Secretary of State March 6, 1997.

#### 97-112

##### CHICAGO LATINO CINEMA WEEK

Whereas, the Chicago Latino Cinema seeks to develop, promote and increase awareness of Latino cultures among Latinos and other communities through film and video events, education and other art forms; and

Whereas, the Chicago Latino Cinema is celebrating the 13th Chicago Latino Film Festival at the Chestnut Theater and Facets Multimedia Theater from April 4-14, 1997; and the festival will feature approximately 100 films and videos, including comedies, dramas, documentaries, animation and experimental programs; and

Whereas, approximately 20 countries will be represented at the film festival, with directors, actors and producers hosting post-screening discussions about their work;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim April 4-14, 1997, as CHICAGO LATINO CINEMA WEEK in Illinois.

Issued by the Governor March 3, 1997.

Filed by the Secretary of State March 6, 1997.

#### 97-113

##### JUDGE ILANA DIAMOND ROVNER DAY

Whereas, the Decalogue Society of Lawyers is holding its Award of Merit for 1996-97; and

Whereas, the Award of Merit is presented to a deserving individual in recognition of the recipient's lifetime achievements and contributions for the betterment of mankind; and

Whereas, Judge Ilana Diamond Rovner is the recipient of the Award of Merit for 1996-97; and

Whereas, Judge Rovner received her J.D. in 1966 from IIT-Chicago-Kent School of Law; and

Whereas, Judge Rovner was the first woman supervisor in the history of the Public Protection Unit in the U.S. Attorney's Office in 1975, later becoming the Chief; and

Whereas, Judge Rovner was appointed to the United States Court of Appeals for the Seventh Circuit by President Bush in 1992; and

Whereas, Judge Rovner currently sits on the Seventh Circuit Judicial Council, Seventh Circuit Race and Gender Fairness Committee and the Seventh Circuit U.S. Court of Appeals Fairness Committee; and

Whereas, Judge Rovner has received many awards, such as the Today's Chicagoan Award, the National Association of Women Judges Award, the Social Justice Leadership Award by the League to Improve the Community;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 6, 1997, as JUDGE ILANA DIAMOND ROVNER DAY in Illinois.

Issued by the Governor March 3, 1997.

Filed by the Secretary of State March 6, 1997.

#### 97-114

##### TIBETAN DAY

Whereas, Illinois has been chosen as a primary site for the U.S. Tibetan Resettlement Project. The project will help Tibetans resettle to Illinois and preserve Tibet's historical and cultural heritage; and

Whereas, on March 10, 1997, Tibetans throughout the world will gather to commemorate the 38th anniversary of the struggle for freedom and independence of their country; and

Whereas, in 1989, his Holiness the fourteenth Dalai Lama, leader of the Tibetan people, was awarded the Nobel Peace Prize for his continued efforts toward peaceful resolution of the occupation of Tibet; and

Whereas, the Tibetan people have the right to determine their culture and human rights is an inspiration to all who cherish liberty;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 10, 1997, as TIBETAN DAY in Illinois.

Issued by the Governor March 3, 1997.

Filed by the Secretary of State March 6, 1997.

#### 97-115

##### LORI SENF DAY

Whereas, Lori Senf is actively involved in many extracurricular activities at her high school, including Marching Band Drum Major, Varsity Singers Section Leader, Senior Class Secretary, Academic Team Varsity Member, Spanish Club President, Track Team Member and Tennis Team Member; and

Whereas, Lori is a peer tutor and volunteer at Condell Hospital. While on Wheeland Public Action Center system (P.A.A.C.S.); and she earned baby-sitting throughout the year, she was given the opportunity to purchase hats and scarves for the needy; and

Whereas, Lori has attended several conferences including the National Youth Leadership Conference, Washington Journalism Conference, National Youth Leadership Forum, Naval Academy Summer Seminar, Drum Major Academy, and most recently, a student conference in Washington, D.C. this February; and

Whereas, Lori's many honors include the American Business Women's Association's Student of the Month, National Honor Society, who's Who Among High School Students, Civil Air Patrol Cadet of the Month, Grayslake Appreciation Award and the United Way of Lake County Award; and

Whereas, Lori will be honored by the Grayslake Charter Chapter of the American Business Women's Association at their March 13 meeting as Student of the Year;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 13, 1997, as LORI SENF DAY in Illinois and congratulate Lori on her many accomplishments.

Issued by the Governor March 4, 1997.

Filed by the Secretary of State March 6, 1997.

#### 97-116

##### AFRICAN AMERICAN CONTRACTORS ASSOCIATION DAY



Whereas, the African American Contractors Association (AACA) has long been a champion of the cause of minorities working in the construction industry; and  
 Whereas, the AACA provides construction financing for contractors through a contractor financing program which is supported by government and private corporations; and

Whereas, the AACA is dedicated to assisting and helping to develop African American contractors and businesses; and

Whereas, the Association will hold its Seventh Annual Membership and Awards Reception on March 21, 1997, with "Building for the Future" as the theme;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim March 21, 1997, as AFRICAN AMERICAN CONTRACTORS ASSOCIATION DAY in Illinois.

Issued by the Governor March 5, 1997.  
 Filed by the Secretary of State March 6, 1997.

## 97-117

## DESIGN DRAFTING WEEK

Whereas, there are more than 500,000 professional designers and drafters in the United States; and

Whereas, designers and drafters translate ideas into detailed drawings used to create finished products; and

Whereas, the skills of design drafting professionals are vital to the complex process of mass production, the intricate mechanisms of computerized machines and the construction of modern office buildings; and

Whereas, the American Design Drafting Association (ADDA) is dedicated to the professional designer drafter in all disciplines, including manufacturing, utilities, construction, engineering, government and education; and

Whereas, the ADDA celebrates a special week in honor of the men and women working in the design drafting profession; the State of Illinois, proclaim March 9-15, 1997, as DESIGN DRAFTING WEEK in Illinois.

Issued by the Governor March 5, 1997.  
 Filed by the Secretary of State March 6, 1997.

## 97-118

## INTERNATIONAL REGGAE AND WORLD MUSIC AWARDS DAY

Whereas, the 16th Annual International Reggae and World Music Awards (IRAWMA) will be held May 3, 1997; and

Whereas, the purpose of the IRAWMA is to promote reggae and world-beat music as well as honor and recognize the reggae and world-beat entertainers for their outstanding contributions to the art of music; and

Whereas, the IRAWMA was first held in Chicago in 1982 and has been staged at major cities across the United States and the Caribbean; and

Whereas, this year's awards celebration will be held at the James R. Thompson Center in Chicago;

Therefore, I, Jim Edgar, Governor of the State of Illinois, proclaim May 3, 1997, as INTERNATIONAL REGGAE AND WORLD MUSIC AWARDS DAY in Illinois.

Issued by the Governor March 5, 1997.  
 Filed by the Secretary of State March 6, 1997.

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